

PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODYName McClure, Wilbur

(Last)

(First)

(Initial)

Prisoner Number C-50493Institutional Address CTF, O.O. Box 689, Soledad, CA., 93960-0689**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**WILBUR MCCLURE

(Enter the full name of plaintiff in this action.)

vs.

Ben Curry,Warden.

(Enter the full name of respondent(s) or jailor in this action)

Case No. _____

(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS**

E-filing

(PR)

Read Comments Carefully Before Filling In**When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

PET. FOR WRIT OF HAB. CORPUS

- 1 -

FILED

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
8/19/2008

CV

08

3959

CW

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

L.A.Co.Superior Court

Los Angeles

Court

Location

(b) Case number, if known A811397

(c) Date and terms of sentence 7 to Life

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes XXX No

Where?

Name of Institution: Correctional Training Facility

Address: P.O. Box 689, Soledad, CA. 93960-0689

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

Kidnap Robbery, P.C. §§209(b), 667.5(b)

3. Did you have any of the following?

Arraignment: Yes xx No

Preliminary Hearing: Yes xx No

Motion to Suppress: Yes _____ No _____

4. How did you plead?

Guilty _____ Not Guilty xx Nolo Contendere _____

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury XX Judge alone _____ Judge alone on a transcript _____

6. Did you testify at your trial? Yes xx No

7. Did you have an attorney at the following proceedings: x x

(a) Arraignment Yes xx No

(b) Preliminary hearing Yes xx No

(c) Time of plea Yes xx No

(d) Trial Yes xx No

(e) Sentencing Yes xx No

(f) Appeal Yes xx No

(g) Other post-conviction proceeding Yes _____ No _____

8. Did you appeal your conviction? Yes xx No

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes xx No

Year: ? Result: AFFIRMED

Supreme Court of California Yes _____ No _____

Year: _____ Result: _____

Any other court Yes _____ No _____

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

- 1 petition? Yes _____ No ^{XX}_____
- 2 (c) Was there an opinion? Yes _____ No _____
- 3 (d) Did you seek permission to file a late appeal under Rule 31(a)?
- 4 Yes _____ No _____

5 If you did, give the name of the court and the result:

6 _____

7 _____

- 8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
- 9 this conviction in any court, state or federal? Yes _____ No _____

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that

11 challenged the same conviction you are challenging now and if that petition was denied or dismissed

12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit

13 for an order authorizing the district court to consider this petition. You may not file a second or

14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28

15 U.S.C. §§ 2244(b).]

- 16 (a) If you sought relief in any proceeding other than an appeal, answer the following
- 17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: _____

19 Type of Proceeding: _____

20 Grounds raised (Be brief but specific):

21 a. _____

22 b. _____

23 c. _____

24 d. _____

25 Result: _____ Date of Result: _____

26 II. Name of Court: _____

27 Type of Proceeding: _____

28 Grounds raised (Be brief but specific):

- a. _____
 b. _____
 c. _____
 d. _____

Result: _____ Date of Result: _____

III. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

- a. _____
 b. _____
 c. _____
 d. _____

Result: _____ Date of Result: _____

IV. Name of Court: _____

Type of Proceeding: _____

Grounds raised (Be brief but specific):

- a. _____
 b. _____
 c. _____
 d. _____

Result: _____ Date of Result: _____

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes XX No _____

Name and location of court: NORTHERN DISTRICT OF CAL.

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: SEE ATTACHED WRIT OF HABEAS CORPUS

6
7 Supporting Facts: SEE ATTACHED WRIT OF HABEAS CORPUS

8
9
10
11 Claim Two: SEE ATTACHED WRIT OF HABEAS CORPUS

12
13 Supporting Facts: SEE ATTACHED WRIT OF HABEAS CORPUS

14
15
16
17 Claim Three: SEE ATTACHED WRIT OF HABEAS CORPUS

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19 Supporting Facts: SEE ATTACHED WRIT OF HABEAS CORPUS

20
21
22
23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 SEE ATTACHED MEMORANDUM OF POINTS AND

5 AUTHORITIES

6
7 Do you have an attorney for this petition?

Yes____ No XX

8 If you do, give the name and address of your attorney:

9
10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12
13 Executed on 8-12-08

14 Date

Wilbur Lynn McClure

Signature of Petitioner

15
16
17
18
19
20 (Rev. 6/02)

EXHIBIT "A"

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: 11-13-07

Honorable: STEVEN R. VAN SICKLEN
NONEJudge J.DITTMER
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004785

In re,
WILBUR McCLORE.,
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Nature of Proceedings: ORDER RE: PETITION FOR WRIT OF HABEAS CORPUS

The Court has read and considered the Petition for Writ of Habeas Corpus filed on July 13, 2007, by the Petitioner. Having independently reviewed the record, giving deference to the broad discretion of the Board of Parole Hearings ("Board") in parole matters, the Court concludes that the record contains "some evidence" to support the Board's finding that the Petitioner presents an unreasonable risk of danger to society and is unsuitable for parole. Cal. Code Reg. Tit. 15, §2402; *In re Rosenkrantz* (2002) 29 Cal. 4th 616, 667.

The Petitioner was received in the Department of Corrections on April 6, 1987, after a conviction for kidnapping for robbery and assault with a deadly weapon. He was sentenced to life with the possibility of parole, plus one year. His minimum parole eligibility date was April 4, 1993.

The record reflects that on November 25, 1985, the Petitioner's accomplice, armed with a gun, approached the victim, Krispi Boucher, in a parking lot and demanded her money and her purse. When the victim told him that she did not have her purse, he hit her in the face and forced her into the passenger seat of her car. The victim then told the Petitioner's accomplice that her purse was in the trunk of the car and gave him her keys. After retrieving the victim's purse, the Petitioner's accomplice pushed her into the back seat of the car and got into the driver's seat. The Petitioner got into the passenger seat. While they were driving, the Petitioner took the victim's jewelry. Then, both men forced the victim to purchase clothing and shoes for them. Afterward, they released the victim on the side of a freeway and drove away.

The Board found the Petitioner unsuitable for parole after a parole consideration hearing held on January 4, 2007. The Petitioner was denied parole for two years. The Board concluded that the Petitioner was unsuitable for parole and would pose an unreasonable risk of danger to society and a threat to public safety. The Board based its decision on several factors, including his commitment offense and his previous record of violence.

The Court finds that there is some evidence to support the Board's findings that the offense was carried out in a dispassionate and calculated manner and that the motive was very trivial in relation to the offense. Cal. Code Regs., tit. 15, §2402, subd. (c)(1)(B) and (c)(1)(E). The Petitioner and his accomplice approached the victim with the intent of robbing her at gunpoint. Despite the victim's cooperation in giving them her purse and money and her pleas that they take the car and leave her, they forced her to drive with them, ripped her jewelry off of her, and then forced her to purchase clothing and shoes at the store. These actions were deliberate, planned, dispassionate and calculated. Also, the motive of obtaining money, jewelry and clothes was very trivial in relation to the kidnapping and robbery.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**DEPT 100**

Date: 11-13-07

Honorable: STEVEN R. VAN SICKLEN
NONEJudge J.DITTMER
Bailiff NONEDeputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004785

In re,
WILBUR McCLORE.,
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

The Court also finds that there is some evidence to support the Board's finding that the Petitioner has a previous record of violence. Cal. Code Regs., tit. 15, §2402, subd. (c)(2). The Petitioner was previously convicted of assault with a deadly weapon for hitting another woman with a telephone.

The Board also considered the Petitioner's 115 for fighting in 1994 and the fact it considered his parole plans to be unrealistic. While these factors may not justify a finding of unsuitability, the Board may properly consider them as relevant to a determination of whether the Petitioner is suitable for parole. Cal. Code Regs., tit. 15, §2402(b).

The Board also considered the Petitioner's post-conviction gains, however, they still concluded that the Petitioner would pose and unreasonable threat to public safety. Penal Code §3041(b). The Court finds that there is some evidence to support this determination because of the nature of his commitment offense and his previous record of violence.

The Court finds that the Board did not err in denying the Petitioner parole for a period of two years. The Board must articulate reasons that justify a postponement, but those reasons need not be completely different from those justifying the denial of parole. See *In re Jackson* (1985) 39 Cal.3d 464, 479. The Board indicated that the Petitioner was denied parole for two years, because of the nature of this commitment offense; his previous record of violence; and his need to develop more insight into his offense. These reasons were sufficient to justify a two-year denial.

The Court finds that the Petitioner's argument that he received ineffective assistance of counsel at his hearing is without merit. In order to prevail on a claim of ineffective assistance, the Petitioner must show that a reasonable probability exists that, but for the counsel's failings, the result would have been more favorable to the defendant. See *In re Resendiz* (2001) 25 Cal.4th 230,239. Here, it is clear that the Board would have come to the same conclusion, based on the factors discussed above, regardless of any inaction by the Petitioner's attorney.

Accordingly, the petition is denied.

The court order is signed and filed this date. The clerk is directed to give notice.

A true copy of this minute order is sent via U.S. Mail to the following parties:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT 100

Date: 11-13-07

Honorable: STEVEN R. VAN SICKLEN
NONE

Judge J.DITTMER
Bailiff NONE

Deputy Clerk
Reporter

(Parties and Counsel checked if present)

BH 004785

In re,
WILBUR McCLORE.,
Petitioner,
On Habeas Corpus

Counsel for Petitioner:

Counsel for Respondent:

Wilbur McClore
C-50493
Correctional Training Facility
P.O. Box 689
Soledad, California 93960-0689

Department of Justice-State of California
Office of the Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101

EXHIBIT "B"

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

COURT OF APPEAL SECOND DIST.

FILED

MAR 20 2008

JOSEPH A. LAKE

Clerk

V. GRAY

Deputy Clerk

In re

WILBUR McCLORE,

on

Habeas Corpus.

B206230

(Los Angeles County
Super. Ct. No. A811397)
(Steven R. Van Sicklen, Judge)

ORDER

BY THE COURT:

The petition for writ of habeas corpus, filed March 6, 2008, has been read and considered. The request for appointment of counsel is denied. The petition is denied. (*In re Dannenberg* (2005) 34 Cal.4th 1061, 1070-1071; *In re Rosenkrantz* (2002) 29 Cal.4th 616.)

EXHIBIT "C"

Court of Appeal, Second Appellate District, Div. 3 - No. B206230
S162615

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re WILBUR MCCLORE on Habeas Corpus

The petition for review is denied.

SUPREME COURT
FILED

JUN 11 2008

Frederick K. Ohlrich Clerk

Deputy

GEORGE
Chief Justice

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Wilbur McClure,

Petitioner,

v.

Case No.

Ben Curry, Warden,

Respondent.

PROOF OF SERVICE

I hereby certify that on _____, I served a copy of the attached PETITION FOR WRIT OF HABEAS CORPUS, by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the United States Mail at Soledad, California, 93960-0689.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Ave
Box 36060
San Francisco, CA.
94102

I declare under penalty of perjury that the foregoing is true and correct.

Wilbur McClure, C-50493
Correctional Training Facility
P.O. Box 689 / B-Wing, 217L
Soledad, CA. 93960-0690
Petitioner in Pro Se

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B. PROCEDURES WHICH LED TO DEPRIVATION OF LIBERTY1
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GROUND ONE:

THE BOARD'S DECISION TO DENY PAROLE IS OTHERWISE ARBITRARY AND IS NOT SUPPORTED BY "SOME EVIDENCE" CONTAINING AN INDICIA OF RELIABILITY.

GROUND TWO:

THE BOARD'S FINDING OF UNSUITABILITY AND REFUSAL OF THE GRANTING OF PAROLE VIOLATED THE PETITIONER'S RIGHT TO DUE PROCESS AND DEPRIVED HIM OF HIS FEDERALLY PROTECTED LIBERTY INTEREST WHEN THE BOARD DENIED PETITIONER A PAROLE GRANT WITHOUT ANY RELIABLE EVIDENCE OR "SOME EVIDENCE" IN VIOLATION OF THE 5TH AND 14TH AMENDMENTS OF THE UNITED STATES CONSTITUTION.

A. THE BOARD DID NOT MEET THE BURDEN OF PROOF THAT PETITIONER POSES AN "UNREASONABLE RISK" OF THREAT TO PUBLIC SAFETY IF RELEASED ON PAROLE. THE DECISION WAS WITHOUT EVIDENCE AND WAS ARBITRARY AND CAPRICIOUS, VIOLATING FUNDAMENTAL DUE PROCESS.11
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B. THE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT PROHIBITS STATE ACTION THAT DEPRIVES A PERSON OF LIFE, LIBERTY OR PROPERTY WITHOUT DUE PROCESS OF LAW.15
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"E" Laudatory Chronos and Certificate of Achievements.	

POINTS AND AUTHORITIES

Name/Title

- In re Bramble
(1947) 31 Cal.2d 43, 51 [6] P.2d 411
- People v. Stuart
(1956) 47 Cal.2d 167, 175 [7] 302 P.2d 5, 55 A.L.R.2d 705
- People v. Smith
(1955) 44 Cal.2d 77, 79 [2] 279 P.2d 33
- In re McVickers
(1946) 29 Cal.2d 264, 278, 176 P.2d 40
- People v. Valentine
(1946) 28 Cal.2d 121, 143 [20] 159 P.2d 1
- People v. Ralph
(1944) Cal.2d 575, 581 [2] 150 P.2d 401
- Biggs v. Terhune
(9th Cir. 2003) 334 F.3d 910, 914, 915, 916
- In re Ramirez
(2001) 94 Cal.App.4th 549, 564-565, 571
- Edward v. Balisok
(1997) 520 U.S. 541, 648
- In re Caswell
92 Cal.App.4th 1017, 1029
- People v. Dubon
90 Cal.App.4th 949, 952, (2001)
- Charlton v. Federal Trade Comm.
543 F.2d 903-907, 908 (D.C. Cir. 1976)
- McQuillion v. Duncan
306 F.3d 901-910, (9th Cir. 2002)
- In re Smith
109 Cal.App.4th 489 (2003)
- Kentucky Dept of Corrections v. Thompson
490 U.S. 454, 459-460 (1989)
- Board of Pardons v. Allen
(1987) 482 U.S. 369, 376-78
- Greenholtz v. Inmates of Neb. Penal & Corr. Complex
(1979) 442 U.S. 1, 11-12

POINTS AND AUTHORITIES (continued)

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U.S. v. Guagliardo

275 F.3d 868-872, (9th Cir. 2002)

Graynet v. City of Rockford

408 U.S. 104, 108-109 (1972)

Irons v. Warden

358 F.Supp.2d 936 (E.D. Cal. 2005)

In re Scott

34 Cal.Rptr.3d at 919-920, 133 Cal.App.4th at 594-595

Shaputis

37 Cal.Rptr.3d at 335

In re Rosenkrantz

29 Cal.4th at 654-661

In re Smith

114 Cal.App.4th 343, 370, 372

Caswell v. Calderon

363 F.3d 832, 389 (9th Cir. 2004)

Scott

119 Cal.4th at 899

Scott

133 Cal.App.4th at 595, 34 Cal.Rptr.3d at 919-920

Superintendent v. Hill

472 U.S. 445, 455-457 (1985)

In re Minnis

(1972) 7 Cal.3d 639, 643, n.2

People v. Morse

(1964) 60 Cal.2d 631, 643, n.8

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Bair

2005 WL2219220 *12 n.3

Williams v. State of New York

(1949) 337 U.S. 241, 247

Sass v. Calif. Board of Prison Terms

376 F.Supp.2d (E.D. Cal. 2005)

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In re Lee
49 Cal.Rptr.3d 931

In re Elkins
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Rosenkrantz v. Marshall
774 F.Supp.2d, 1063 (C.D. Cal. 2006)

Blankenship v. Kane,
2006 WL5215627 *3 (N.D. Cal. 2006)

Murille v. Perez
2005 L2592420 *3n.1. (C.D. Cal. 2005)

Siafullah v. Carey
2005 WL1555389 *8 (E.D. Cal. 2005)

Superintendent Steve Lomas Hill
472 U.S. at 455, 105 S.Ct. 2768, 2774, 86 L.Ed.2d 356 (1985)

Rojas v. Neilson
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Sanchez v. Kane,
444 F.Supp.2d 1049 (C.D.Cal. 2006)

Delgado v. Lewis
233 F.3d 976, 982 (9th Cir. 2000)

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400 F.3d 740, 742 (9th Cir. 2005)

Hines v. Thompson
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33 F.3d 39, 40

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(9th Cir. 2003) 372 U.S. 293 (1963)

Keeney v. Tamaya-Reyes
504 U.S. 1, 5 1992

Taylor v. Maddox
(9th Cir. 2004) 336 F.3d 992, 1001.

POINTS AND AUTHORITIES (continued)

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(May 22, 2007) Cal.Rptr.3d WL1475283

In re Elkins
(2006) 144 Cal.App.4th 475, 487

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(2006) 143 Cal.App.4th 1400, 1408

In re Barker
May 29, 2007, DJDAR 7548

Martin v. Marshall
431 F.Supp.2d at p.1047

CCR, Title 15, Division 2

§2000(b)(49)
§2000(b)(62)(90)
§2402
§2402(a)(b)

Penal Codes

§3041
§3041(a)
§3041(b)

Evidence Code

§115

California Constitution, Article V

§8(b)

MEMORANDUM OF POINTS AND AUTHORITIES

PETITIONER WAS DEPRIVED OF HIS CONSTITUTIONALLY AND STATUTORILY PROTECTED RIGHT TO THE LIBERTY INTEREST IN THE EXPECTATION OF PAROLE UNDER PENAL CODE §3041(b) WHICH ATTACHED AT THE TIME OF INCARCERATION.

The due process clause of the 5th and 14th Amendment prohibits a state action that deprives a person of life, liberty or property without due process.

However, a person alleging such a violation must establish that (a), he had protection; (b) that he was deprived of such a protection; and, (c) that the procedure which led to the deprivation was constitutionally deficient. Kentucky Dept. of Corrections v. Thomas, 490 U.S. 459-460, 109 S.Ct. 1904, 104 L.Ed.2d 506 (1989); McQuillion v. Duncan, 306 F.3d 895, 900 (9th Cir. 2002).

A. EXISTENCE OF A LIBERTY INTEREST.

The Supreme Court held in 1979, and reiterated in 1987 that, "a state's statutory scheme, if it uses mandatory language, creates a presumption that parole release will be granted when or unless certain designated findings are made, and then, thereby, gives rise to a constitutionally protected 'Liberty Interest'". McQuillion v. Duncan, supra, 306 F.3d at 901, (citing Greenholtz v. Nebraska Penal Institute, 442 U.S. 1, 7, 99 S.Ct. 2100, 60 L.Ed.2d 668 (1979) and Board of Pardons v. Allen, 482 U.S. 369, 373, 107 S.Ct. 2415, 96 L.Ed.2d 303 (1987)).

Recently, our Ninth Circuit has "held" that California's parole scheme created such a liberty interest because Penal Code §3041 uses mandatory language and is similar to the Nebraska and Montana statutes addressed in Greenholtz, supra, and

1 Allen, supra. (See McQuillion, supra, 306 F.3d at 901-901).

2 Not only did the Ninth Circuit hold that "Section 3041 of
3 the Penal Code creates in every inmate a cognizable liberty
4 interest in parole which is protected by the procedural
5 safeguards of the due process clause," but further held that
6 "the interest arises upon the incarceration of the inmate."
7 Biggs v. Terhune, 334 F.3d 910, 914-915 (9th Cir. 2003).

8 Two United States Supreme Court decisions, Greenholtz v.
9 Inmates of Nebraska Penal and Correctional Complex, (1979) 442
10 U.S. 1, 12, decided in 1979 and Board of Pardons v. Allen,
11 (1987) 482 U.S. 369, 381, decided in 1987, held the Federal Due
12 Process Clause creates a constitutional liberty interest for
13 convicted persons in certain jurisdictions. The existence of
14 this right depends on whether the state employs "mandatory
15 language" indicating parole will be granted if certain findings
16 are made, Board of Pardons v. Allen, supra, 482 U.S. at pages
17 377-381. In 2002 the Ninth Circuit examined the California
18 parole scheme in McQuillion v. Duncan, (9th Cir. 2002) 306 F.3d
19 895 and found it "uses mandatory language and is largely
20 parallel to the schemes found in Greenholtz and Allen,"
21 McQuillion v. Duncan, supra, 306 F.3d at page 901. Accordingly,
22 the McQuillion court found a "liberty interest" was created under
23 the federal constitution for state prisoners in California,
24 McQuillion v. Duncan, supra, 306 F.3d at page 901.

25 While it is true post McQuillion, the California Supreme
26 Court had occasion to visit and decide in In re Dannenberg that
27 "life" prisoners did not have a liberty interest in the
28 expectation that the Board of Parole Hearings would engage in

1 "uniform term" analysis under Penal Code §3041(a) if it
2 demonstrated that public safety warranted denial of parole under
3 §3041(b). That court did not hold, however, that there is no
4 protected liberty interest in parole whatsoever. Indeed,
5 California courts have continued to analyze such claims. See In
6 re Shaputis, 135 Cal. App. 4th, 217, 224, 231-232, Cal.Rptr.3d
7 324 (citing Dannenberg); In re Scott, 133 Cal.App.4th 573, 34
8 Cal.Rptr.3d 905 (2005); In re Lee, 49 Cal.Rptr.3d 931; In re
9 Elkins, 50 Cal.Rptr.3d 503; In re Lawrence, (May 22, 2007),
10 Cal.Rptr.3d WL1475283. Post Dannenberg, even federal courts have
11 uniformly, save one District court decision (Eastern District of
12 California), which seemingly reversed itself in its very next
13 case, [see Sass v. California Board of Prison Terms, 376
14 F.Supp.2d, 975, 982 (E.D. Cal. 2005), which was recently
15 overruled by the Ninth Circuit in Sass v. Board of Prison Terms
16 376 F.Supp.2d, 975, 982, (9th Cir. 2006), and is currently under
17 appeal. (See and compare Sass, supra, to Bair v. Folsom State
18 Prison, 2005 WL2219110 fn.3 (E.D. Cal. 2005), Report and
19 Recommendations adopted by 2005 WL3081634 fn.1 (E.D. Cal.
20 2005).], have followed the reasoning in McQuillion, supra,
21 establishing a liberty interest. Because the Ninth Circuit
22 analyzed the liberty interest which arose from California's
23 Penal Code §3041(a), Dannenberg does not undermine the Ninth
24 Circuit decision in McQuillion. Therefore, McQuillion v. Duncan
25 holds that the mandatory language of Penal Code §3041(b)
26 creating a liberty interest in parole remains controlling
27 precedent. [See Rosenkrantz v. Marshall, 774 F.Supp.2d 1063
28 (C.D. Cal. 2006); Blankenship v. Kane, 2006 WL5215627 *3 (N.D.

1 Cal. 2006); Murille v. Perez, 2005 W.2592420 *3 N.1 (C.D. Cal.
2 2005); Saifullah v. Carey, 2005 WL1555389 *8 (E.D. Cal. 2005)].

3 Thus, petitioner has clearly established not only that he
4 has a constitutionally protected liberty interest but that he
5 was denied this liberty by the denial of parole by the Board of
6 Parole Hearings on January 4, 2007.

7 B. PROCEDURES WHICH LED TO DEPRIVATION OF LIBERTY.

8 It is established principles of due process that a prisoner
9 must provided notice of the hearings; and opportunity to be
10 heard; and, statement of reasons, for denial of parole.

11 Petitioner agrees that he was provided each of these
12 protections. However, the United States Supreme Court has
13 expanded these protections to include:

14 "In a variety of contexts, the court has
15 recognized decisions resulting in a loss of an
16 important liberty interest violates due process
17 if the decision is not supported by some
18 evidence." Superintendent v. Hill, 472 U.S. at
19 455, 105 S.Ct. 2768, 2774, 86 L.Ed.2d 356
(1985); Rosenkrantz v. Marshall, 444 F.Supp.2d
1063 (C.D. Cal. 2006) fn. 13; Rojas v. Neilson,
428 F.3d 1229, 1232 (9th Cir. 2005)[Per curiam]

19 The court further held:

20 "Although '[T]he some evidence standard is
21 minimally stringent', Powell v. Gomez, 33 F.3d
22 39, 40, the evidence underlying the
23 [Governor's] decision must have some indicia of
24 reliability." Hill, supra, 472 U.S. at 455-56,
105 S.Ct. at 2774; See also Sanchez v. Kane,
444 F.Supp.2d 1049 (C.D. Cal. 2006).

24 As an additional matter the Hill court concluded that the
25 decision to deny parole must not be "otherwise arbitrary." Hill,
26 supra, at 547.

27 Clearly then, the Hill analysis determined that due process
28 requires much more than notice, opportunity to be heard and

1 statement of reason. It also requires (A). evidence which
2 supports the conclusion; (B). the evidence to be reliably
3 related to the issue of present dangerousness (CCR Title 15,
4 §2402(a)); In re Scott, supra, 1373 Cal.App.4th 593, 34
5 Cal.Rptr.3d 905; In re Elkins, 50 Cal.Rptr.3d 503; In re Lee, 49
6 Cal.Rptr.3d 931; (C). the evidence must be truthful and (D). the
7 decision must not be arbitrary or capricious. Sanchez v. Kane,
8 444 F.Supp.2d 1049 (C.D. Cal. 2006).

9 GROUND ONE:

10 THE BOARD'S DECISION TO DENY PAROLE IS
11 OTHERWISE ARBITRARY AND IS NOT SUPPORTED BY
12 "SOME EVIDENCE" CONTAINING AN INDICIA OF
RELIABILITY.

13 In combining the California and federal standards of
14 review, as they have been articulated thus far by the California
15 Supreme Court and the Ninth Circuit, respectively, the
16 commitment crime can lack the power to supply "some evidence"
17 supporting a denial of parole because of the interplay between
18 two factors - the nature of that crime and the passage of time
19 since its commission. That is, the fact there is "some evidence"
20 the crime was committed and committed a certain way at a certain
21 time does not mean that crime necessarily represents "some
22 evidence", that petitioner's release on parole will pose an
23 unreasonable risk of danger to the public safety at the present
24 time. Whether it possesses the necessary predictive value
25 depends both on the nature of the crime and how long ago it
26 happened. Petitioner's commitment offense, now over 20 years in
27 the past does not provide "some evidence" his present release
28 would represent an "unreasonable risk" of danger to the

1 community.

2 It is worth noting that the issue before this court is
3 whether petitioner is suitable for parole, not when he should be
4 released under the California parole system. The Board's initial
5 task with respect to any inmate serving an indeterminate
6 sentence is to determine whether the prisoner is suitable for
7 parole. That is whether the prisoner "pose[s] an unreasonable
8 risk of danger to society if released from prison. CCR, Title 15
9 §2402." Only after the Board deems an inmate suitable is a
10 release date set. CCR, Title 15, §2282; See also Dannenberg, 34
11 Cal.4th 1061, 1071 (2005). ("[A] determination of individual
12 suitability must proceed the setting of a ... parole release
13 date.") The actual parole release date may well be (in some
14 cases) a number of years into the future, under the Board
15 regulations, the release date is established using a matrix that
16 takes into account the inmate's offense of imprisonment and the
17 circumstances in which it was committed. CCR, Title 15, §2282.

18 Supreme Court law clearly established a parole decision,
19 like a prison disciplinary decision, deprives a prisoner of due
20 process if it is not supported by "some evidence" or is
21 "otherwise arbitrary." Hill, supra, at 457; McQuillion v. Duncan
22 306 F.3d 895, 904 (9th Cir. 2002).

23 However, that evidence "must have some indicia of
24 reliability," Scott I, supra, 119 Cal.App.4th at p.899) and
25 "suitability determinations must have some rational basis in
26 fact. (In re Elkins, 144 Cal.App.4th at p.489).

27 As our Supreme Court has summarized it, "the judicial
28 branch is authorized to review the factual basis of a decision

1 of the board denying parole in order to ensure that the decision
2 comports with the requirements of due process of law, but ... in
3 conducting such review, the court may inquire only whether "some
4 evidence" in the record before the board supports the decision
5 to deny parole, based upon factors specified by statute and
6 regulation. If the decision's consideration of the specified
7 factors is not supported by "some evidence" in the record and
8 thus is devoid of a factual basis, the court should grant the
9 prisoner's petition for writ of habeas corpus and should order
10 the board to vacate its decision denying parole and thereafter
11 to proceed in accordance with due process of law. (Rosenkrantz,
12 supra, 29 Cal.4th at p.658, underline added). Finally, as has
13 been recently stated, because the overarching consideration is
14 public safety, the test in reviewing the board's decision
15 denying parole "is not whether some evidence supports the
16 reasons [the board] cites for denying parole, but whether some
17 evidence indicates a parolee's release unreasonably endangers
18 public safety.[Citations]. Some evidence of the existence of a
19 particular factor does not necessarily equate to some evidence
20 the parolee's release unreasonably endangers public safety." (In
21 re Lee, 143 Cal.App.4th at p.1408)(In re Barker, May 29, 2007),
22 DJDAR 7548)(In re Lawrence, (May 22, 2007) Cal.Rptr.3d
23 WL1475283)(In re Rosenkrantz, (2002) 29 Cal.4th 616, 665)(In re
24 Dannenberg, (2005) 34 Cal.4th 1061, 1100).

25 Merely to pick pieces from evidence to create one's version
26 sufficient to justify an action is not "some evidence".
27 reasonably related to the circumstances sufficient to deny
28 parole. Superintendent v. Hill, requires more. The Hill

1 requirement mandates that the evidence relied upon possess not
2 only an "indicia of reliability" but that is is "reasonably
3 related to the circumstances so as to constitute some evidence
4 that the crime was 'particularly egregious'". (i.e. "reasonably"
5 sufficient to support the decision made). See Hill, 472 U.S.
6 445, 455-56, (1985). Accordingly, to recite in rote,
7 circumstances of the crime sufficient under different
8 circumstances (for instance as one would apply to first degree
9 murder) and proclaim that sufficient under these circumstances,
10 does not constitute "some evidence" justifying denial of parole
11 or establish a current danger to the public. The decision of the
12 board is unreasonable in light of the volumes of evidence
13 showing suitability. Furthermore, since the evidence clearly
14 does not support the board's conclusion, the "conclusion" does
15 not possess any "indicia of reliability" and is patently
16 arbitrary and capricious, denying petitioner his liberty
17 interest in parole. It is clear that the board's finding amounts
18 to an "unreasonable" determination of the facts in light of the
19 evidence available to the board at the hearing. Only by
20 examination may the court determine whether the board's decision
21 was in fact "unreasonable" or "objectively unreasonable."
22 Delgado v. Lewis, 233 F.3d 976, 982 (9th Cir. 2000); Pham v.
23 Terhune 400 F.3d 740, 742 (9th Cir. 2005); Hines v. Thompson,
24 336 F.3d 848, 853 (9th Cir. 2003); Pirtle v. Morgan, 313 F.3d
25 1160, 1167 (9th Cir. 2002).

26 GROUND TWO:

27 THE BOARD FINDING OF UNSUITABILITY AND REFUSAL
28 OF THE GRANTING OF PAROLE VIOLATED THE
PETITIONER'S RIGHT TO DUE PROCESS AND DEPRIVED

HIM OF HIS FEDERALLY PROTECTED LIBERTY INTEREST WHEN THE BOARD DENIED PETITIONER A PAROLE GRANT WITHOUT ANY RELIABLE EVIDENCE OR "SOME EVIDENCE," IN VIOLATION OF THE 5TH AND 14TH AMENDMENT OF THE UNITED STATES CONSTITUTION.

Section 3041 of the California Penal Code creates substantial presumption that a parole release date shall be set at the initial parole hearing, and in a manner that is uniform to other similar offenses. Subdivision (a) and (b), of §3041 mandates that a parole release date "shall" be set "unless" the board finds that the gravity of the commitment offense or offenses, or the timing and gravity of past convicted offenses are such that a consideration of the public safety warrant not setting a release date at that hearing. "Furthermore, if there be any reasonable doubt as to identity of offense we are bound to resolve that doubt in favor of petitioner." (In re Bramble, 1947, 31 Cal.2d 43, 51, [6], 187 P.2d 411). Moreover, the rule is established that when language which is reasonably susceptible of two constructions is used in a penal law, ordinarily that construction which is more favorable to the offender will be adopted. The defendant is entitled to the benefit of every reasonable doubt, whether it arises out of a question of fact, or as to the true interpretation of words or the construction of language used in a statute. (People v. Stuart, (1956), 47 Cal.2d 167, 175, [7], 302 P.2d 5, 55 A.L.R.2d 705; People v. Smith, (1955) 44 Cal.2d 77, 79 [2], 279 P.2d 33; In re Bramble, (1947) supra, 31 Cal.2d 43, 51 [6,7], 187 P.2d 441; In re McVickers, (1946) 29 Cal.2d 264, 278, 176 P.2d 40; People v. Valentine, (1946 28 Cal.2d 121, 143 [20], 159 P.2d 1; People v. Ralph, (1944), 24 Cal.2d 575, 581 [2], 150 P.2d 401).

1 There is no other criteria in the statute for denying parole to
2 a prisoner. It appears from the language that "consideration of
3 the public safety" is nonetheless limited to the gravity of the
4 offense and/or the timing and gravity of any past "convicted"
5 offense or offenses. The statute does not encompass or authorize
6 some of the criteria set forth by the California Code of
7 Regulations, Title 15, §2402. It does appear that the statute
8 has been enlarged to include additional criteria not expressly
9 authorized by the statute.

10 Notwithstanding, the argument set forth in the petition is
11 not merely an argument about a state law violation. The
12 presumption vested by the statute is substantial, while the
13 statutory criteria the board must meet in order to deny parole
14 is limited to criminal conduct at the time of the offense. For
15 the board to interpret the statute in such a manner as to deny
16 parole solely on the commitment offense after the board had
17 denied petitioner on the exact same point nine times, deprives
18 petitioner of a substantial liberty interest protected by
19 federal due process. (See Biggs at 334 F.3d 917). The effect of
20 such an interpretation, established by practice, is to subject
21 all prisoners to pro forma decisions, where the board goes
22 through the motion of due process review, citing post hoc
23 rationalizations to justify the parole denial, that is now
24 always the result. This is little different than a decision to
25 deny parole made without any evidence to support it. Thus, by
26 misinterpretation, whether inadvertently or intentionally, the
27 result is not merely a violation because it is an action the
28 board is simply not authorized to take by the enabling statute.

1 that impinges on federally protected liberty interests.
2 Petitioner relies on this claim which is now brought before the
3 state court.

4 A. THE BOARD DID NOT MEET THE BURDEN OF PROOF THAT
5 PETITIONER POSES AN "UNREASONABLE RISK" OF
6 THREAT TO PUBLIC SAFETY IF RELEASED ON PAROLE.
7 THE DECISION WAS WITHOUT EVIDENCE AND WAS
8 ARBITRARY AND CAPRICIOUS, VIOLATING FUNDAMENTAL
9 DUE PROCESS.

10 The regulatory law requires the board to set a release date
11 unless it finds that the prisoner poses an "unreasonable risk"
12 to public safety if released at that time. (15 CCR, §2402). This
13 is consistent with the enabling state which requires the setting
14 of a release date.

15 If the preponderate record before the board demonstrates
16 that petitioner does not post the "unreasonable risk" (which the
17 record shows that he does not, from petitioner's last 9 parole
18 hearings), a release date must be set.

19 If the board denies petitioner parole without making this
20 requisite finding based on relevant and credible facts in the
21 record, then this is not merely a state law violation, but a
22 deprivation of the substantial liberty interest he has in
23 obtaining a release date. Failure of the board to act in accord
24 with the regulations, in such situations, constitutes a
25 substantive due process violation because it constitutes an
26 abuse of discretion that unfairly and inaccurately deprives the
27 prisoner of his right to that federally protected liberty
28 interest. The board needs more than "some evidence" to arrive at
their decision, even though once the decision is made, the
reviewing court needs only to find "some evidence" to support

1 the decision or findings that were made. As petitioner will
2 point out, the "some evidence" standard is not a "burden of
3 proof" - although the board and the governor seems to think it
4 is. Petitioner will demonstrate by clear and convincing facts
5 that the board's burden of proof is the "preponderance of
6 evidence" standard, but they totally ignore this in arriving at
7 their post hoc rationalization to deny parole in nearly every
8 case. There must be a weighing and balancing process according
9 to a burden of proof.

10 Thus, petitioner alleges that the board's decision in his
11 case exceeded the bounds of "review" and was made without the
12 procedural safeguards required by the Constitution, and without
13 applying the proper proof necessary to overcome the presumptive
14 right to release delineated in Penal Code §3041.

15 Statutory law in California applies the "rock bottom"
16 burden of proof in judicatory proceedings at the "preponderance
17 of evidence" level. (Evidence Code §115). The board lists under
18 "good cause," the preponderance evidence (15 CCR, Division 2,
19 §2001(b)(49), and also lists "relevant" and "material" evidence
20 as the standard for being valid "evidence." (15 CCR, Div. 2,
21 §2000(b)(62)(material evidence), and (90)(relevant evidence).
22 The "good cause" provision is a requirement for decision making
23 that applise to all substantive decisions. These regulatory and
24 statutory provisions initiate the weighing and balancing process
25 of evidence at parole hearings. A responsibility the board must
26 undertake. The board cannot apply the "some evidence" standard
27 because it is not a burden of proof. (In re Ramirez, (2001) 94
28 Cal.App.4th 549 at 564-565; Edwards v. Balisok, (1997) 520 U.S.

1 641, at 648). The "some evidence" applies only to questions of
2 evidentiary sufficiency as an "additional requirement of due
3 process, not substituted for other due process requirements."
4 (Ibid.) The "some evidence" standard is applied only by the
5 reviewing court to determine if the board's (governor's)
6 decision is supported by "some evidence," if the court finds the
7 board complied with all other requisite due process
8 requirements. If the board failed to apply a critical element in
9 the weighing and balancing of evidence, such as a burden of
10 proof, then the court cannot deny the petition because there
11 isn't "some evidence" in the record to support the decision.
12 (Scott I, supra, 119 Cal.App.4th at p.899, In re Elkins, supra,
13 144 Cal.App.4th at 489). As the Appellate Court in In re Caswell
14 92 Cal.App.4th 1017, 1029, pointed out, there is always some
15 evidence in the record of unsuitability of parole, which if
16 invoked, would subject every consideration of parole to an
17 arbitrary standard or political whim, but for a burden of proof,
18 and the burden of producing evidence, is clearly in California
19 law, e.g. People v. Dubon, 90 Cal.App.4th 949, 952, (2001), and
20 applies to all state agencies.

21 Here, where the statute presumes that a parole date "shall
22 normally" be set, the board must, in their weighing and
23 balancing of all relevant, material and reliable evidence,
24 present by a preponderance of that evidence, a "rational
25 connection" between the basic facts the board is asserting as
26 sufficient to deny parole, and the ultimate fact statutorily
27 presumed, i.e., that the prisoner is more than likely not
28 "suitable" for setting a parole release date.

1 Petitioner submits that the board and the governor have
2 broad discretion in parole matter, but the requirement of
3 procedural due process embodied in the California Constitution
4 places some limitations upon these discretionary powers.

5 As heretofore shown, the board's burden of proof is the
6 preponderance of relevant and material evidence standard. This
7 is the "rock bottom" standard allowed by California law.
8 (Evidence Code §1115; see e.g. Charlton v. Federal Trade Comm.,
9 543 F.2d, 903-907, 908, (D.C. Cir. 1976)(speaking to this
10 standard as being "rock bottom" burden of proof). "Good Cause"
11 is defined in the BPT's regulations as "a finding by the board
12 based upon a preponderance of the (material and relevant)
13 evidence that there is a factual basis and good reason for the
14 decision made." (Ibid. 2000). Here, in petitioner's case, the
15 board, based on the "material and relevant" evidence found
16 petitioner unsuitable for parole on the basis of the commitment
17 offense which petitioner has been denied nine times base
18 primarily on the same issues, i.e., unchanging factors. This is
19 a clear due process violation and especially where the relevant
20 and reliable evidence concerning public safety that was
21 presented at petitioner's subsequent parole consideration
22 hearings that show that petitioner does not pose an
23 "unreasonable risk to the public if released at this time.

24 The mandatory language in §3041 of the Penal Code
25 established a rebuttable presumption affecting the board's
26 burden of producing evidence and the burden of proof
27 implementing public policy regarding the parole of "term to
28 life" prisoners.

1 Petitioner asserts that the ultimate facts sought is a
2 determination whether the prisoner is currently in "unreasonable
3 risk" of danger to the public safety if released on parole.
4 (Subd. (b), Penal code §3041; 15 CCR. §2402(a)).

5 The presumption created by mandatory language in both
6 subdivision (a) and (b) of P.C. §3041 is that the petitioner
7 "shall normally" have a parole release date set "unless" the
8 presumption is overcome by the board which carries the burden of
9 proof as to the existence of the presumed fact. McQuillion v.
10 Duncan, 306 F.3d, 901-902, (9th Cir. 2002); Biggs v. Terhune,
11 334 F.3d 910, 916-917 (9th Cir. 2003) (regarding the presumption
12 in Penal Code §3041). If the board cannot produce the evidence
13 according to the burden of proof required, then the presumption
14 stands, and the court is obliged to uphold the presumption, and
15 under In re Smith, 109 Cal.App.4th 489 (2003), must order
16 petitioner released from custody.

17 B. THE DUE PROCESS CLAUSE OF THE 14TH AMENDMENT
18 PROHIBITS STATE ACTION THAT DEPRIVES A PERSON
19 OF LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE
20 PROCESS OF LAW.

21 The due process clause of the 14th Amendment prohibits
22 state action that deprives a person of life, liberty, or
23 property, without due process of law. A person alleging a due
24 process violation must first demonstrate that he or she was
25 deprived of liberty or property interest protected by the due
26 process clause, and then show that the procedures that led to
27 the deprivation were constitutionally insufficient. Kentucky
28 Dept. of Corrections v. Thompson, 490 U.S. 454, 459-460 (1989);
McQuillion v. Duncan, 306 F.3d, 895, 900 (9th Cir. 2002).

1 In the parole context, a prisoner alleging a due process
2 claim must demonstrate the existence of a protected liberty
3 interest in parole, and the denial of one or more of the
4 procedural protections that must be afforded when a prisoner has
5 a liberty interest in parole. The Supreme Court held in 1979,
6 and reiterated in 1987, that "a state's statutory scheme, if it
7 uses mandatory language, creates a presumption that parole
8 release will be granted when or unless certain designated
9 findings are made, and thereby gives rise to a constitutional
10 liberty interest." McQuillion, supra, 306 F.3d, 16, 901 (citing
11 Greenholtz v. Inmates of Nebraska Penal, 442 U.S. 1, 7 (1979)
12 and Board of Pardon v. Allen, 482 U.S. 369, 373 (1987)).

13 The Ninth Circuit has held that California's parole scheme
14 creates a cognizable liberty interest in release on parole
15 because Penal Code §3041 uses mandatory language and is similar
16 to the Nebraska and Montana statutes addressed in Greenholtz and
17 Allen, respectively. McQuillion, 306 F.3d 15, 901-902. As the
18 Ninth Circuit has explained, "§3041 of the California Penal Code
19 creates in every inmate a cognizable interest in parole which is
20 protected by the procedural safeguards of the due process
21 clause," and that interest arises "upon the incarceration of the
22 inmate." Biggs v. Terhune, 334 F.3d 910, 914-915 (9th Cir.
23 2003).

24 GROUND THREE:

25 THE BOARD VIOLATES DUE PROCESS BY REPEATEDLY
26 RELYING ON THE UNCHANGING FACTS OF THE CRIME IN
27 THE FACE OF CLEAR EVIDENCE OF REHABILITATION
28 AND BY MAKING RECOMMENDATIONS OF WHAT TO DO TO
BE FOUND SUITABLE AT EACH HEARING. A FINDING OF
EGREGIOUSNESS IS BARRED BY THE INMATE'S
COMPLIANCE WITH THOSE AGREED TERMS.

1 When the board repeatedly relies on the unchanging facts of
2 the crime to deny parole, in the face of clear evidence that the
3 inmate has been rehabilitated, due process is violated. Biggs v.
4 Terhune, supra, at 915-916, Ramirez, supra, at 571). However,
5 here, the board goes a step further. At the conclusion of each
6 hearing attended by petitioner, the board gave him a series of
7 what to do to be found suitable for parole. If the crime was
8 going to continue to be an impediment to parole, then what
9 difference would it make whether petitioner followed those
10 recommendations, since parole would be denied in any event as
11 the crime will never change? How could the board make those
12 recommendations in good faith if the crime was such that parole
13 was not going to occur no matter how well petitioner programs?
14 Even worse, if he complies with those recommendations and the
15 board gives him a parole date, if the governor is permitted to
16 effectively negate this whole process unilaterally taking that
17 parole date away, then the recommendations and compliances are
18 rendered useless acts.

19 The board has a duty to make all recommendations
20 "sufficiently clear" to inform petitioner what conduct will
21 result in a grant of parole. (U.S. v. Guagliardo, 278 F.3d
22 868-872, (9th Cir. 2002)[citing Graynet v. City of Rockford, 408
23 U.S. 104, 108-109, (1972)]. "A prisoner's due process rights are
24 violated if parole conditions are not made 'sufficiently clear'
25 so as to inform him of what conduct will result in his being
26 returned to prison. Likewise, the Board of Prison Terms has a
27 duty to make recommendations for parole eligibility
28 'sufficiently clear' so as to inform the inmate of conduct that

1 will warrant a finding of suitability." U.S. V. Guagliardo,
2 supra, 278 F.3d 868. Thus, the onus is on the board to clearly
3 and specifically stated what conduct will warrant a finding of
4 suitability. Therefore it follows that there is only one way to
5 interpret the recommendations given to petitioner at the
6 Documentation hearing and at each of the Subsequent parole
7 hearings. They constitute the board's "sufficiently clear"
8 instructions as to what petitioner must do to be found suitable.
9 As stated, it is indisputable but that petitioner has complied
10 with every single one of the board's directives to him, and
11 thus, the board must finally find petitioner suitable for
12 release. If the board's directions to the inmate are not
13 acknowledged as sincere offers providing legitimate goals for
14 achieving a status of parole suitability, then they are mere
15 "hoops" designated to support elaborate ruse and a further
16 affront to the due process rights of all prisoners who rely upon
17 them.

18 As noted, petitioner sincerely relied upon the
19 recommendations of the prior board panels, and he partook to
20 fulfill each one. Petitioner's fulfillment may be recognized
21 through his educational and vocational accomplishments and
22 gains, his ongoing self-help work and his crime free behavior
23 throughout his nearly 20 years of incarceration. Petitioner has
24 complied with those directives following each and every hearing,
25 and the board should finally recognize his compliance by
26 granting parole.

27 A. CONTINUED RELIANCE ON THE UNCHANGING FACTS OF THE
28 CRIME VIOLATES DUE PROCESS.

1 In Biggs v. Terhune, the 9th Circuit held that even if the
2 commitment offense(s) are sufficient to support a denial of
3 parole based upon considerations of due process. Biggs v.
4 Terhune, supra, 334 F.3d at 916. The Ramirez court also
5 acknowledged that there will always be "some evidence" to
6 support a finding that a prisoner committed the underlying
7 offense. Those facts alone, however, do not justify the denial
8 of parole. Thus, while concluding that there was factual support
9 for the findings as to the crime and priors, the Ramirez, court
10 still found the board's decision arbitrary since there had been
11 7 hearings at that point, 9 years had passed beyond the minimum
12 term and it was 17 years after entering prison, and all evidence
13 showed rehabilitation. (Id. at 571). Likewise, as the Biggs court
14 more recently said, despite the fact that there may remain
15 evidence to support a finding of egregiousness of the crime:

16 "A continued reliance in the future on an
17 unchanging factor, the circumstances of the
18 offense and conduct prior to imprisonment,
19 runs contrary to the rehabilitative goals
20 espoused by the prison system and could result
21 in a due process violation." (Biggs, supra, at
22 916-917).

23 In the published case of Irons v. Warden, 358 F.Supp.2d 936
24 (E.D. Cal. 2005), the federal court found that the board
25 violated the prisoner's due process by continuing to rely on the
26 immutable factors. (e.g. the commitment offense and history
27 prior to incarceration) to support the denial of parole. In
28 doing so, the federal judge there ruled that continuing to rely
on those factors that can never change, such as the commitment
offense, or history prior to imprisonment, where there is no
proof of continuing bad conduct to support a finding of current

1 threat to the public, offends due process.

2 In interpreting the rule set forth in Biggs, and the plain
3 language of Penal Code §3041, it is clear that even if the crime
4 may be considered egregious, under federal due process
5 principles, the denial of parole based on the immutable facts of
6 the crime is only authorized at the first parole consideration
7 hearing. The provisions of Penal Code §3041 only talk of the use
8 of the crime to defer setting of a date at the initial hearing.
9 (Penal Code §3041(a)). After that, to give the statute a
10 constitutional interpretation that is not unreasonably vague,
11 further denials would have to be based on some facts arising
12 subsequent to the crime that show a continued propensity for
13 violence, making the inmate a danger to the public. (Biggs v.
14 Terhune, supra, 334 F.3d at 914-915). To rule otherwise would
15 put petitioner in an impossible situation, where no matter what
16 he shows in terms of positive behavior, reformation,, self-help,
17 work skills, parole plans, or just rehabilitation in general, he
18 would never be able to overcome the unchanging facts of the
19 crime. The only logical application of Constitutionally Due
20 Process dictates what the court in Irons held, i.e., that any
21 subsequent denial requires the presence of some in-prison
22 behavior showing that the inmate currently presents an
23 unreasonable risk of danger if paroled.

24 Here, the facts of the crime have been used as the real
25 reason for denying parole on 9 separate occasions, yet, those
26 facts have never been tied to current behaviors showing
27 petitioner still presents an unreasonable risk of danger to the
28 public at this time. A rule requiring the presence of in-prison,

1 adverse behavior to justify further denial based on the crime,
2 simply recognizes what the 9th Circuit in Biggs alluded to when
3 it talked of the rehabilitative goals of the system, and, the
4 need to take into consideration that a person can change. At
5 this point, petitioner has been incarcerated for twenty years,
6 eligible for parole for more than 14 of those years. His
7 programming clearly shows his full rehabilitation. In drawing
8 the line as to when further denials become arbitrary, it is
9 obvious that the line has clearly been crossed in this case, and
10 in fact, was crossed as soon as the crime was used in the second
11 parole hearing without the presence of facts showing a continued
12 risk of danger based on how petitioner was programming in
13 prison. To the contrary, the in-prison facts are exclusively
14 positive.

15 As the Ramirez court noted, the paroling authority must do
16 more than merely commend petitioner for the hard work done to
17 rehabilitate himself while in prison. They must actually
18 consider these factors "as...circumstance[s] tending to show his
19 suitability for parole." Ramirez, supra, 94 Cal.App.4th at
20 571-572 [emphasis original]. Of course, all the board did with
21 petitioner's extensive accomplishments was to brush them aside
22 with several terse lines, and issue superficial compliments. The
23 Biggs rule is clear that if an inmate continue[s] to demonstrate
24 exemplary behavior and evidence of rehabilitation, denying him a
25 parole date simply because of the nature of his offense and
26 prior conduct would raise serious questions involving his
27 liberty interest in parole. Biggs v. Terhune, supra, 334 F.3d at
28 916. Here, the evidence of rehabilitation is beyond dispute.

1 In comparing the present case with Biggs, it is undeniably
2 clear that the board lacks any justification whatsoever to
3 continue to deny petitioner a parole date. In Biggs, the inmate
4 was convicted of the premeditated and deliberate First Degree
5 Murder of a witness in a major theft case against the
6 defendants, and yet, the court was quick to caution the board
7 that it could not continue to solely rely on the commitment
8 offense to deny the inmate parole, even though it was only his
9 initial hearing at that point. Yet, petitioner has been denied
10 parole on 9 separate occasions, each time effectively relying
11 virtually exclusively upon the unchanging facts of his
12 commitment offense. The continued reliance upon the commitment
13 offense is simply arbitrary, particularly in the fact of the
14 board's acknowledgements of petitioner's model behavior in
15 prison and extensive accomplishments, all of which are conceded
16 by the statement of decision. Therefore, as the court states in
17 Biggs, denying him a parole date simply because of the nature of
18 the offense, not only raises serious questions involving his
19 liberty interest in parole, but blatantly violates due process.
20 (See Biggs v. Terhune, supra, 334 F.3d at 915-916; Irons,
21 supra).

22 B. CONTINUED RELIANCE UPON FACTS OF THE CRIME VIOLATES
23 DUE PROCESS.

24 First, continued reliance upon these unchanging factors
25 makes a sham of California's parole system and amounts to an
26 arbitrary denial of petitioner's "liberty interest in release on
27 parole," and his "presumption that a parole release date will be
28 granted." (See McQuillion v. Duncan, 306 F.3d 895, 902 (9th Cir.
2002), Biggs, 334 F.3d at 9144-915, Rosenkrantz, 29 Cal.4th at

1 654, 661). Petitioner has been denied parole on nine different
2 occasions. continued reliance upon these unchanging factors
3 amounts to converting petitioner's offense to a term of life
4 without the possibility of parole. (See Irons, 358 F.Supp.2d at
5 947 ["continuous reliance on the unchanging circumstances
6 transforms an offense into a de facto life imprisonment without
7 the possibility of parole"]; Scott, 34 Cal.Rptr.3d at 919-920,
8 133 Cal.App.4th at 594-595; Shaputis, 37 Cal.Rptr.3d at 335).

9 Second, the circumstances of the crime and petitioner's conduct
10 prior to imprisonment do not amount to some evidence supporting
11 the conclusion that petitioner "currently" (underline added)
12 poses an unreasonable risk of danger if released at this time."]

13 In re Shaputis, (2006) 37 Cal.Rptr.3d 324, 334-335). In the
14 parole context, the requirments of^x due process can only be met
15 if "some evidence" supports the decision and the evidence
16 underlying the decision is supported by "some indicia of
17 reliability." Biggs, 334 F.3d at 914; Caswell v. Calderon, 353
18 F.3d 832, 839 (9th Cir. 2004); Scott, 119 Cal.4th at 899;
19 Superintendent v. Hill, 472 U.S. 445, 455-457 (1985);
20 McQuillion v. Duncan, 306 F.3d 895, 903 (9th Cir. 2002).

21 Petitioner presents a stronger case than Biggs for several
22 reasons. First petitioner's commitment offense was less serious
23 than the petitioner in Biggs. The Biggs petitioner was involved
24 in a violent, manipulative and premeditated murder, the
25 petitioner here has a much lesser serious offense than
26 petitioner Biggs. Second, the Biggs petitioner had not yet
27 served the full terms of his sentence, while petitioner here has
28 exceeded his sentence by approximately twenty years. Finally,

1 petitioner here has demonstrated exemplary behavior and evidence
2 of rehabilitation; as required by Biggs court, for a significant
3 period of time. Therefore, the sole reliance on petitioner's
4 commitment offense in denying him parole impinges on
5 petitioner's constitutional liberty interest in parole. (Martin
6 v. Marshall, supra, 431 F.Supp.2d at p.1047). (In re Lawrence,
7 (May 22, 2007), Cal.Rptr.3d WL1475283 (Cal.App.2d Dist.)).

8 While it may have been reasonable to rely on petitioner's
9 offense and conduct prior to imprisonment as an indicator of
10 dangerousness for some period of time, continued reliance on
11 such unchanging circumstances after 20 years of incarceration
12 and nine parole suitability hearings, violates due process
13 because these factors now lack predictive value with regards to
14 petitioner's present and future dangerousness. After 20 years
15 of rehabilitation in which petitioner's eligible parole date for
16 release was passed on April 4, 1993, (Exhibit "B", Initial
17 M.E.P.D.), the ability to predict petitioner's future
18 dangerousness based simply on the circumstances of the crime is
19 nil. (See Irons, 358 F.Supp.2d at 947 n.2 ["four prior times in
20 finding [Irons] unsuitable for parole" and "after 15 years" of
21 imprisonment, ability to assess dangerousness "is near zero."];
22 Scott, 133 Cal.App.4th at 595, 34 Cal.Rptr.3d at 919-920 ["the
23 predictive value of the commitment offense may be very
24 questionable after a long period of time."].

25 Petitioner's record is replete with evidence of
26 petitioner's rehabilitation, which was expressed by the board,
27 including Psychological Reports, Correctional Counselor's
28 Reports, extensive self-improvement through vocational,

1 educational, self-help therapy and disciplinary free
2 incarceration for the past 11 years. (See Exhibit "B").

3 While the board may initially have been entitled to rely
4 upon the commitment offense and petitioner's conduct prior to
5 imprisonment to find petitioner unsuitable for parole, under
6 these circumstances, petitioner submits that the continued
7 reliance and sole reliance of the convicted offense do not now
8 constitute "some evidence" with "some indicia of reliability" of
9 petitioner's current dangerousness. (See Hill, 472 U.S. at 445;
10 Biggs, 334 F.3d at 917; Irons, 358 F.Supp.2d at 947; Masoner,
11 2004 WL1090188 *1-2; Bair, 2005 WL2219220, *12 n.3; Scott, 133
12 Cal.App.4th at 594-595, 34 Cal.Rptr.3d at 919-920; Rosenkrantz,
13 2002 29 Cal.4th 616, 665; Dannenberg, (2005) 34 Cal.4th 1061,
14 1100; In re Lee, (2006) 143 Cal.App.4th 1400, 1408; In re
15 Lawrence, (2007) Cal.Rptr.3d WL1475283; In re Barker, (2007)
16 DJDAR 7548).

17 C. JUDICIAL OVERSIGHT IS CRITICAL TO SAFEGUARD THE
18 UNDERLYING PURPOSE OF CALIFORNIA'S PAROLE SYSTEM
19 AND THE LIBERTY INTERESTS OF INMATES. THE
ESSENCE OF THE PAROLE SYSTEM IS THE RE-ENTRY OF
PRISONERS WHO NO LONGER POSE A PUBLIC THREAT.

20 Parole, the release of the imprisoned before they have
21 served the maximum time set by their sentence, has long been
22 part of the California penal system. The Indeterminate
23 Sentencing Law, requiring the trial judge to set a minimum but
24 not a maximum sentence was enacted in 1971. In re Minnis, (1972)
25 7 Cal.3d 639, 643, n.2 ("the court in imposing the sentence
26 shall not fix the term or duration of the period of
27 imprisonment")(citation and internal quotations omitted). The
28 goal of indeterminate sentences and the California parole system

1 is not only to punish but also to provide for reformation and
2 rehabilitation:

3 "The belief no longer prevails that every
4 offense in a like legal category calls for an
5 identical punishment without regard to the
6 past life and habits of a particular offender
7 ... retribution is no longer the dominant
8 objective of the criminal law. Reformation and
9 rehabilitation of offenders have become
10 important goals of criminal jurisprudence."
11 People v. Morse, (1964) 60 Cal.2d 631, 643, n.8 (quoting
12 Williams v. State of New York, (1949) 337 U.S. 241, 247). In a

13 lengthy discussion of this topic, the California Supreme Court
14 states as follows:

15 [T]he purpose of the indeterminate sentence
16 law, like other modern laws in relation to the
17 administration of the criminal law, is to
18 mitigate the punishment which would otherwise
19 be imposed upon the offender. These laws place
20 emphasis upon the reformation of the offender.
21 They seek to make the punishment fit the
22 criminal rather than the the crime. The
23 endeavor to put before the prisoner great
24 incentive to well-doing, in order that his
25 will to do well would be strengthened and
26 confirmed by the habit of well-doing.

27 [...]

28 [T]he interests of society require that under
prison discipline every effort should be made
to produce a reformation of the prisoner ...
The Legislative policy [was to provide a
system whereby] a hope was to be held out to
prisoners that through good conduct in prison
and a disposition shown toward reformation,
they might be permitted a conditional liberty
upon restraint under which they might be
restored again to society...

29 [...]

30 Although good conduct while incarcerated and
31 potential for reform are not the only relevant
32 factors, the court has acknowledged their
33 significance. Furthermore, authority has
34 declared that these factors are among those of
35 "paramount importance."

36 In re Minnis, Cal.3d at 644-645. The Rosenkrantz court, citing

1 Minnis, reaffirmed the principles. "[E]ven before factors
2 relevant to parole decisions had been set forth expressly by
3 state statute and by regulations, we concluded that [a]ny
4 official or board with discretion, is under obligation to
5 consider all relevant factors [citations], and the [official or
6 board] cannot, consistently with its obligation, ignore post
7 conviction factors unless directed to do so by Legislature." In
8 re Rosenkrantz, (2002) 29 Cal.4th 515, 656 (quoting Minnis, 7
9 Cal.3d at 645).

10 D. PRISONERS HAVE A CONSTITUTIONAL LIBERTY INTEREST
11 IN PAROLE DECISIONS.

12 "[P]arole applicants in California have an expectation that
13 they will granted parole unless the board finds, in the exercise
14 of its discretion, that they are unsuitable for parole in light
15 of the circumstances specified by statute and by regulation."
16 Rosenkrantz, 29 Cal.4th at 659-61 (holding that the California
17 Constitution, Article V, §8(b) and the California Penal Code
18 §3041, "give rise to a protected liberty interest in that "a
19 prisoner granted parole by the board has an expectation that the
20 governor's decision to affirm, modify, or reverse, the board's
21 determination will be based upon the same factors the board is
22 required to consider," and that "liberty interest underlying a
23 governor's parole review decision is protected by due process of
24 law.").

25 Federal courts have also unequivocally held that
26 California's parole system gives rise to a liberty interest
27 constitutionally protected by due process. (See Board of Pardons
28 v. Allen, (1987) 482 U.S. 369, 376-78; Greenholtz v. Inmates of
Neb. Penal & Correctional Complex, (1979) 442 U.S. 1, 11-12,

1 (holding a state's statutory parole scheme that uses mandatory
2 language may create a presumption that parole release will be
3 granted upon certain circumstances or findings, thus giving rise
4 to a constitutionally protected liberty interest); McQuillion v.
5 Duncan, (9th Cir. 2002) 306 F.3d 896, 902-903, n.1, 903 (holding
6 that because California's parole scheme uses mandatory language
7 and is largely parallel to the schemes found in Allen and
8 Greenholtz, that give rise to a protected liberty interest in
9 release on parole, "California's parole scheme gives rise to a
10 cognizable liberty interest in release on parole"). Biggs v.
11 Terhune, (9th Cir. 2003) 334 F.3d 910, 915-916.

12 E. STANDARD OF REVIEW REQUIRES AN EVIDENTIARY HEARING.

13 On habeas corpus, a petitioner is entitled to an
14 evidentiary hearing where the petitioner has established a
15 "colorable" claim for relief and where the petitioner has never
16 been accorded a state or federal hearing on his claim. Earp v.
17 Oronski, (9th Cir. 2003) 372 U.S. 293 (1963) and Keeney v.
18 Tamaya-Reyes, 504 U.S. 1, 5 (1992). In stating a "colorable"
19 claim, a petitioner is merely required to allege specific facts
20 which, if true, would entitle him to relief. (Ibid.). Granted,
21 under AEDPA, a federal court is not required to order a hearing
22 where petitioner failed to develop the facts in state court. In
23 such cases, the federal court accords a presumption of
24 correctness to the facts found by the state court and need not
25 hold a evidentiary hearing, unless those facts are rebutted by
26 clear and convincing evidence. On the other hand, no deference
27 is due where state had made an unreasonable determination of the
28 facts and where a state court makes evidentiary finding without

1 holding a hearing and giving petitioner an opportunity to
2 present evidence. Such findings clearly result in an
3 "unreasonable determination" of the facts. Taylor v. Maddox,
4 (9th Cir. 2004) 336 F.3d 992, 1001.

5 In summation, an evidentiary hearing is required under the
6 AEDPA and the Appellate court will remand for a hearing if the
7 District Court rules without granting one, "where petitioner
8 establishes a colorable claim for relief and has never been
9 accorded a state or federal hearing on his claim." Earp, supra,
10 at 1167.

11 Here, petitioner requests an evidentiary hearing at every
12 level of the state's habeas proceedings and each of the court's
13 to which he appealed who rule without granting him an evidentiary
14 hearing. As a result, (1) petitioner is entitled to an
15 evidentiary hearing in this court before the court can make any
16 credibility determination of the facts alleged in the petition
17 and supporting exhibits; (2) any contrived facts found by the
18 state court while denying a request for an evidentiary hearing
19 necessarily resulting from an "unreasonable determination" of
20 the facts and hence are not entitled to any presumption of
21 correctness. (Earp, supra, at 1167; Taylor, supra, at
22 1101) ["when state court's legal error infects the fact finding
23 process, thus resulting in factual determinations will be
24 unreasonable and no presumption of correctness can attach to
25 it"].

PRAYER FOR RELIEF

Petitioner is without remedy save for Habeas Corpus.

Accordingly, petitioner requests that the court:

1. Issue a Writ of Habeas Corpus granting petitioner's Due Process violation claims;
2. Issue an Order to Show Cause;
3. Declare the rights of petitioner;
4. Appoint counsel to represent petitioner;
5. Issue an Order directing an Evidentiary Hearing;
6. Issue an Order releasing petitioner based on supporting evidence;
7. Grant any and all relief found necessary or appropriate.

Dated this *12* day of *August*, 2008.

Respectfully submitted,

Wilbur Lynn McClure

Wilbur McClure

Petitioner in Pro Per

///

///

EXHIBIT “A”

70

DEPT. NW S

rr SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
Date:	MARCH 31, 1987	JUDGE	G COVEY
HONORABLE:	DARLENE SCHEMP	Deputy Sheriff	G GORKOS
			Deputy Clerk
			Reporter
(Parties and counsel checked if present)			
A 811397	Counsel for	IRA REINER	DISTRICT ATTY. BY
PEOPLE OF THE STATE OF CALIFORNIA	Plaintiff	M ROSENBLATT	DEPUTY
VS			
02) MC CLURE, WILBER LYNN	Counsel for	M ADELSON 987.2	XXXXXX
X 016527	Defendant	J ESTEIN	XXXXXX
	by		XXXXXX
NATURE OF PROCEEDINGS PROBATION AND SENTENCE			
(Boxes checked if order applicable)			

PROBATION DENIED, SENTENCE AS INDICATED BELOW.

Whereas the said defendant having been duly Found
guilty in this court of the crime of KIDNAPING FOR ROBBERY (Sec. 209(b) PC) a felony,
as charged in count 14 of the Information.

It is Therefore Ordered, Adjudged and Decreed that the said defendant be punished by imprisonment in the State Prison. for LIFE. Plus 1 year pursuant to section 667(a) to run CONSECUTIVE TO Count 14.

☒ Defendant is given credit for 728 days in custody (includes 243 days good time/work time).
It is further Ordered that the defendant be remanded into the custody of the Sheriff of the County of Los Angeles and delivered by him into the custody of the Director of Corrections at the California State Institution

- ☒ for Men at Chino, California
☐ for Women at Frontera, California
☐

- ☐ Remaining count(s) dismissed in interests of justice.
☐ Bail exonerated.

2

76J805A (REV. 7-82) 4-85
C-109

JUDGMENT

ENTERED
04-01-87FRANK S. ZOLIN
EXECUTIVE OFFICE
COUNTY CLERKAND CLERK OF THE
SUPERIOR COURTPINK ORIGINAL TO FILE
WHITE COPY TO MICROFILMYELLOW COPY TO STATEWIDE DISTRIBUTION
GREEN COPY TO PROBATION EXPEDITER

DATE: MARCH 31 1987
HONORABLE: LARLENE SCHENK
3072 CASE NO. A311397
JUDGE: DEPT. G COVEY
Deputy Sheriff: G GOR KOS
N/S Deputy Clerk: Reporter

PEOPLE OF THE STATE OF CALIFORNIA
VS
02 MCCLURE WILBER LYNN
209.8 01CTS 211 01CTS
(BOX CHECKED IF ORDER APPLICABLE) X

Counsel for People: M. Rosenblatt
Counsel for Defendant: ADELSON 987.2 J. Estew 487.3 01CTS

NATURE OF PROCEEDINGS
71 ☐ PLS X016527 REM/REM OTH
72 ☐ CRIMINAL PROCEEDINGS ADJOURNED/RESUMED. IS SWORN AS THE ENGLISH/ 01-23-86
73 ☐ DEFENDANT ORDERED DELIVERED TO DEPARTMENT OF CORRECTIONS PER SECTION 1203.03 PENAL CODE. INTERPRETER
74 ☐ ON MOTION, PROBATION AND SENTENCE HEARING/FURTHER PROCEEDINGS CONTINUED TO
75 ☐ AT A.M. IN DEPT. SUPPLEMENTAL PROBATION REPORT/PROGRESS REPORT ORDERED
76 ☒ PROBATION DENIED. DEFENDANT ORDERED TO RETURN.
☒ IMPRISONED IN STATE PRISON FOR TERM PRESCRIBED BY LAW. TOTAL OF YEARS MONTH
☒ COURT SELECTS THE TERM OF 14 YEARS FOR THE BASE TERM AS TO COUNT 14
☒ PLUS ONE YEAR(S) PURSUANT TO PENAL CODE SECTION 667(a) TO BE ADDED TO THE
AS INDICATED IN BOX 87 BELOW
☐ COMMITTED TO CALIFORNIA YOUTH AUTHORITY, THE TERM OF IMPRISONMENT TO WHICH THE DEFENDANT WOULD
HAVE BEEN SENTENCED PURSUANT TO SECTION 1170 PENAL CODE IS YEARS
☐ IMPRISONED IN LOS ANGELES COUNTY JAIL FOR TERM OF DAYS
☐ FINED IN SUM OF \$ PLUS ADDITIONAL FINE OF \$ (11372.5 HEALTH & SAFETY CODE) FOR A
TOTAL FINE OF \$ PLUS \$ ASSESSMENT AND SURCHARGE (1484 & 1208.8 PENAL CODE) TO
BE PAID TO COUNTY CLERK/PROBATION OFFICER IN SUCH MANNER AS HE SHALL PRESCRIBE.
☐ PAY RESTITUTION FINE IN SUM OF \$ PURSUANT TO SECTION 13067(4) GOVERNMENT CODE PAYABLE TO
☐ RESTITUTION FUND ☐ PROBATION DEPARTMENT IN SUCH MANNER AS THEY PRESCRIBE ☐ SAID FINE TO BE STAYED
WHILE DEFENDANT PAYS RESTITUTION AND IF RESTITUTION IS PAID IN FULL, STAY SHALL BE PERMANENT.
77 ☐ SENTENCE IS SUSPENDED.
78 ☐ PROBATION GRANTED FOR A PERIOD OF YEARS ☐ PROBATION TO BE WITHOUT FORMAL SUPERVISION.
1 ☐ SPEND FIRST DAYS IN COUNTY JAIL ☐ ROAD CAMP OR HONOR FARM RECOMMENDED.
2 ☐ WORK FURLOUGH PROGRAM RECOMMENDED. ☐ NOT TO BE ELIGIBLE FOR COUNTY PAROLE
3 ☐ MINIMUM PAYMENT OF FINE/RESTITUTION TO BE \$
4 ☐ MAKE RESTITUTION OF \$ TO THE VICTIM/RESTITUTION FUND PURSUANT TO SECTION 1203.04
PENAL CODE IN SUCH MANNER AS THE PROBATION OFFICER SHALL PRESCRIBE. ☐ TOTAL AMOUNT OF RESTITUTION TO
INCLUDE 2% SERVICE CHARGE AS AUTHORIZED BY SECTION 279 WELFARE & INST. CODE.
5 ☐ NOT DRINK ANY ALCOHOLIC BEVERAGE AND STAY OUT OF PLACES WHERE THEY ARE THE CHIEF ITEM OF SALE.
6 ☐ NOT USE OR POSSESS ANY NARCOTICS, DANGEROUS OR RESTRICTED DRUGS OR ASSOCIATED PARAPHERNALIA, EXCEPT WITH VALID
PRESCRIPTION, AND STAY AWAY FROM PLACES WHERE USERS CONGREGATE.
7 ☐ NOT ASSOCIATE WITH PERSONS KNOWN BY YOU TO BE NARCOTIC OR DRUG USERS OR SELLERS.
8 ☐ SUBMIT TO PERIODIC ANTI-NARCOTIC TESTS AS DIRECTED BY THE PROBATION OFFICER, SUCH TESTING TO BE SUSPENDED WHILE
THE DEFENDANT IS IN CUSTODY, IS HOSPITALIZED, OR IS IN A RESIDENTIAL DRUG TREATMENT PROGRAM APPROVED BY
PROBATION OFFICER.
9 ☐ HAVE NO BLANK CHECKS IN POSSESSION. NOT WRITE ANY PORTION OF ANY CHECKS. NOT HAVE BANK ACCOUNT UPON WHICH YOU
MAY DRAW CHECKS.
10 ☐ NOT GAMBLE OR ENGAGE IN BOOKMAKING ACTIVITIES OR HAVE PARAPHERNALIA THEREOF IN POSSESSION, AND NOT BE PRESENT IN
PLACES WHERE GAMBLING OR BOOKMAKING IS CONDUCTED.
11 ☐ NOT ASSOCIATE WITH
12 ☐ COOPERATE WITH PROBATION OFFICER IN A PLAN FOR
13 ☐ SUPPORT DEPENDENTS AS DIRECTED BY PROBATION OFFICER.
14 ☐ SEEK AND MAINTAIN TRAINING, SCHOOLING OR EMPLOYMENT AS APPROVED BY PROBATION OFFICER.
15 ☐ MAINTAIN RESIDENCE AS APPROVED BY PROBATION OFFICER
16 ☐ SURRENDER DRIVER'S LICENSE TO CLERK OF COURT TO BE RETURNED TO DEPARTMENT OF MOTOR VEHICLES.
17 ☐ NOT DRIVE A MOTOR VEHICLE UNLESS LAWFULLY LICENSED AND INSURED.
18 ☐ NOT OWN, USE OR POSSESS ANY DANGEROUS OR DEADLY WEAPONS.
19 ☐ SUBMIT PERSON AND PROPERTY TO SEARCH OR SEIZURE AT ANY TIME OF THE DAY OR NIGHT BY ANY LAW ENFORCEMENT OFFICER
WITH OR WITHOUT A WARRANT.
20 ☐ OBEY ALL LAWS, ORDERS, RULES AND REGULATIONS OF THE PROBATION DEPARTMENT AND OF THE COURT.
79 ☒ DEFENDANT TO BE GIVEN CREDIT FOR 728 DAYS IN CUSTODY (INCLUDES 243 DAYS GOOD TIME/WORK TIME)
80 ☐ SENTENCE/COUNTS TO RUN CONSECUTIVELY TO/CONCURRENTLY WITH
81 ☐ STAY OF EXECUTION OF GRANTED TO
82 ☐ ON MOTION OF PEOPLE, COUNTS
83 ☒ COURT ADVISES DEFENDANT OF HIS APPEAL RIGHTS. DISMISSED IN FURTHERANCE OF JUSTICE
84 ☐ "NOTICE RE CERTIFICATE OF REHABILITATION AND PARDON" GIVEN TO DEFENDANT.
85 ☐ DEFENDANT TO PAY COSTS OF PROBATION SERVICES IN AMOUNT OF \$
86 ☐ COURT FINDS THAT DEFENDANT DOES NOT HAVE THE PRESENT ABILITY TO PAY COSTS OF INCARCERATION/LEGAL SERVICES RENDERED/
PROBATION SERVICES RENDERED.
87 ☒ FURTHER ORDER AS FOLLOWS: As to COUNT 15, the Court
selects the mid term of Three (3) years and 6 months pursuant
to Penal Code Section 654. As to COUNT 16, the Court selects the mid
term of 2 years and 6 months pursuant to Penal Code Section
654. Both stays to become permanent upon the completion of the
sentences in COUNT 14. The Notice of Appeal is submitted.

88 ☐ SHERIFF IS ORDERED TO ALLOW DEFENDANT PHONE CALLS AT DEFENDANT'S OWN EXPENSE
89 ☐ DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE.
90 ☐ BAIL, IF POSTED, FORFEITED/O.R. REVOKED. BENCH WARRANT ORDERED ISSUED/REISSUED/AND HELD UNTIL
☐ NO BAIL/BAIL FIXED AT \$
91 ☐ DEFENDANT APPEARING BENCH WARRANT ORDERED RECALLED/QUASHED ☐ RECALL NO. WRITTEN ☐ ABSTRACT FILED

☒ REMANDED ☐ BAIL ☐ BAIL EXON. ☐ BOND NO. ☐ ON PROBATION
☐ RELEASED ☐ O.R. ☐ O.R. DISCHARGED ☒ IN CUSTODY OTHER MATTER

74C776 (REV. 9-84)

MAR 31 1987
COUNTY CLERK

3 P & S

1 THE COURT: Do the People wish to be heard?

2 MS. ROSENBLATT: Thank you, Your Honor.

3 What counsel is suggesting by the early offer
4 to plead is that the People reduce the charge from a 209
5 to a 207 without legal ground, which is violative of
6 Prop 8. And I don't think that is a consideration in this
7 case.

8 Certainly, the defendant's interest in pleading
9 guilty was so that he would have a determinate sentence and
10 that his background and future conduct would not weigh
11 against him in the state prison system where that is
12 considered on a light sentence case.

13 As far as the lack of fabrication to a jury
14 in this particular case, I would respectfully refer the
15 court's attention to the statement of the defendant on
16 page 9 of the probation and sentence report, which if one
17 were to believe the testimony now two times of Kristi Boucher
18 in the trial of the defendant, it is totally contrary to
19 her testimony. And suggests a totally different thing having
20 occurred.

21 Not that the defendant misunderstood a true
22 set of facts, but that Miss Boucher's version of the facts
23 wherein the defendant, for example, pulled the jewelry from
24 her neck, et cetera; wherein, his partner, Mr. Murphy,
25 threatened the life of Miss Boucher in his presence were
26 not true.

27 The lower end of the 209, I suppose every
28 crime is relative to another. But this victim was terrorized.

1 She, again, wasn't used. And that is on the positive side
2 for the defendant. But she was taken for a distance of
3 approximately 15 miles, I believe, and she was taken from
4 place to place. And her life was threatened more than one
5 time.

6 I suggest that the court do the following:

7 That the court sentence the defendant to the
8 light term on 209(b) of count IV. That the count XV mid term
9 on the 211 be stayed pursuant to 654. That the mid term
10 of two years on the 487.38 stand pursuant to 654.

11 That there was a prior conviction to which
12 the defendant plead guilty, which was a burglary, which he
13 served time in state prison, but did not -- at the time of
14 the plea the defendant would not admit the residential
15 nature of the burglary, although in the statement of the
16 plea, Penal Code section 667(a) was referred to.

17 There wasn't a very good factual basis taken
18 for that. And I have spoken to counsel who would be willing
19 to stipulate that that prior was taken as a 667.5(b) prior.

20 Would you so stipulate, Counsel?

21 MR. EPSTEIN: The one-year prior?

22 MS. ROSENBLATT: Yes.

23 MR. EPSTEIN: So stipulated.

24 MS. ROSENBLATT: And that is a one-year prior.

25 I would ask that one-year prior run consecutive
26 to and to follow the -- well, however is proper. Whether
27 it is to follow or run before the life term as to count XIV.

28 The defendant's prior record, his record for --

EXHIBIT “B”

SUBSEQUENT PAROLE CONSIDERATION HEARING
STATE OF CALIFORNIA
BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration)
Hearing of:)
WILBUR McCLORE)
_____)

CDC Number C-50493

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

JANUARY 4, 2007

3:15 P.M.

PANEL PRESENT:

SANDRA BRYSON, Presiding Commissioner
JOAN THOMPSON, Deputy Commissioner

OTHERS PRESENT:

WILBUR McCLORE, Inmate
MARY ANN TARDIFF, Attorney for Inmate
JOANN GLIDDEN, Deputy District Attorney
Two Correctional Officers, Unidentified

**INMATE
COPY**

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____	No	See Review of Hearing
_____	Yes	Transcript Memorandum

Don Larson -- Vine, McKinnon & Hall

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P R O C E E D I N G S

DEPUTY COMMISSIONER THOMPSON: You are on tape.

PRESIDING COMMISSIONER BRYSON: Thank you. And this is the ninth Subsequent Parole Consideration Hearing for Wilbur McClore, CDC number C, Charles, 50493. Today's date is January 4th, 2007, and the time is 3:15. We're located at the Correctional Training Facility, Soledad. This inmate was received April 6th, 1987, from Los Angeles County. The life term began April 6th, 1987, with a minimum eligible parole date of April 4th, 1993, charging in case number, A, Adam, 81397, Count 1, the controlling offense, Penal Code 209(b), kidnap for robbery, plus Penal Code 6675 -- .5(b), the prior felony that it was a prison term, and noncontrolling offense, that's Los Angeles case number A807032, charging in Count 1, Penal Code 245(a), that's AWD, assault with a deadly weapon, for which the inmate received a term of life plus one year. This Hearing is being recorded. For the purpose of voice identification, each of us will state our first and last name, spelling the last name. When it is your turn, sir, after you spell your last name, please state your CDC number. I will start, and then go to my left. Sandra Bryson, B-R-Y-S-O-N, Board of Parole Hearings.

DEPUTY COMMISSIONER THOMPSON: Joan Thompson, T-H-O-M-P-S-O-N, Deputy Commissioner, Board of Parole Hearings.

1 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** JoAnn Glidden,
2 G-L-I-D-D-E-N, Deputy District Attorney, Los Angeles
3 County.

4 **ATTORNEY TARDIFF:** Mary Ann Tardiff, T-A-R-D-I,
5 double F, attorney for Mr. McClore.

6 **INMATE MCCLORE:** Wilbur McClore, M-C-C-L-O-R-E,
7 C-50493.

8 **PRESIDING COMMISSIONER BRYSON:** Thank you.

9 **INMATE MCCLORE:** You're welcome.

10 **PRESIDING COMMISSIONER BRYSON:** And if you would
11 pull the mike closer to you, the recording equipment is
12 not all that great. Yeah, you've room on the cord to be
13 able --

14 **INMATE MCCLORE:** Okay.

15 **PRESIDING COMMISSIONER BRYSON:** -- to do that. Want
16 to make sure that everything gets --

17 **INMATE MCCLORE:** Okay.

18 **PRESIDING COMMISSIONER BRYSON:** -- heard. Okay.
19 And I note for the record we have two correctional peace
20 officers in the room who are here for security purposes.
21 And, first of all, Commissioner Thompson, is there any
22 confidential material in the file, and if so, will it be
23 used today?

24 **DEPUTY COMMISSIONER THOMPSON:** No use will be made
25 of the confidential information that is -- there is some
26 confidential information. I don't believe it would
27 relate to anything that is pertinent to this Hearing.

1 It's not to be used.

2 **PRESIDING COMMISSIONER BRYSON:** Thank you. All
3 right, I passed the hearing checklist marked Exhibit 1
4 to your attorney and also to the district attorney to
5 ensure that we're all proceeding with the same set of
6 documents. And first, let me ask, does the District
7 Attorney have all the documents?

8 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I think I miss --
9 I don't have the transcript of the sentencing, and I
10 also don't have the crime partner's last Hearing
11 transcript and decision face sheet.

12 **PRESIDING COMMISSIONER BRYSON:** Ah, yes, and as we
13 found in the prior, in the prior Hearing we had, I
14 believe that if you look in the (inaudible) section
15 there is the face sheet, but you will not have the crime
16 partner's --

17 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Transcript.

18 **PRESIDING COMMISSIONER BRYSON:** -- information
19 because -- correct -- because that's included in the
20 confidential file, if it exists.

21 **ATTORNEY TARDIFF:** Wasn't that requested
22 specifically by the last Panel or something? I thought
23 in the crime partner's ... I don't --

24 **PRESIDING COMMISSIONER BRYSON:** But that is
25 available to the Panel because we --

26 **ATTORNEY TARDIFF:** Correct.

27 **PRESIDING COMMISSIONER BRYSON:** -- can read it in

1 the C-File.

2 **ATTORNEY TARDIFF:** If it's there. Didn't they ask
3 for that specifically? Maybe I'm mixing the --

4 **PRESIDING COMMISSIONER BRYSON:** Who? The Panel?
5 Well, what I'm saying -- what I'm saying is if the Panel
6 wants to look at it --

7 **ATTORNEY TARDIFF:** Right.

8 **PRESIDING COMMISSIONER BRYSON:** -- we go to the
9 C-File.

10 **ATTORNEY TARDIFF:** Right.

11 **PRESIDING COMMISSIONER BRYSON:** Okay.

12 **ATTORNEY TARDIFF:** Because (inaudible), if it never
13 got there and was asked by the Panel

14 **PRESIDING COMMISSIONER BRYSON:** Well, I'm not aware,
15 I didn't (inaudible).

16 **ATTORNEY TARDIFF:** Okay.

17 **PRESIDING COMMISSIONER BRYSON:** As to the sentencing
18 transcripts, I didn't find the sentencing transcripts in
19 my Board packet --

20 **ATTORNEY TARDIFF:** No.

21 **PRESIDING COMMISSIONER BRYSON:** -- either. And I
22 suspect that also has been a mistake by records because
23 they're looking at sentencing memos, and they're wrongly
24 assuming they are the transcripts. One moment,
25 (inaudible) so I can't verify one way or another. But I
26 do not have a copy of that either. I believe that is an
27 error. Counsel, do you have a copy of the sentencing

1 transcript?

2 **ATTORNEY TARDIFF:** I have part of it from, from my
3 client, but I don't have --

4 **PRESIDING COMMISSIONER BRYSON:** Hidden there --

5 **ATTORNEY TARDIFF:** No.

6 **PRESIDING COMMISSIONER BRYSON:** -- in the packet?

7 **ATTORNEY TARDIFF:** No.

8 **PRESIDING COMMISSIONER BRYSON:** So I'm going to mark
9 that on the Exhibit 1 that neither of these are actually
10 present. And, counsel, do you have the documents other
11 than the sentencing transcripts and the crime partner's
12 last Hearing transcript (inaudible)?

13 **ATTORNEY TARDIFF:** Yes.

14 **PRESIDING COMMISSIONER BRYSON:** Okay. Are there any
15 additional documents to be submitted?

16 **ATTORNEY TARDIFF:** Well, I do have part of the
17 sentencing -- I don't -- I can -- I'll pass it over to
18 you (inaudible).

19 **PRESIDING COMMISSIONER BRYSON:** (Inaudible.)

20 **ATTORNEY TARDIFF:** I'm not sure if it's (inaudible).

21 **PRESIDING COMMISSIONER BRYSON:** I think (inaudible)
22 right.

23 **DEPUTY COMMISSIONER THOMPSON:** Well, one is a
24 laudatory, two are laudatory chronos, and one is, I
25 believe a work supervisor's (inaudible).

26 **PRESIDING COMMISSIONER BRYSON:** Well, yeah, we'll do
27 (inaudible) all right. All right, sir, today you and

1 your attorney signed the document marked Exhibit 2. And
2 this is regarding ADA Accommodation Hearing Procedures
3 and Inmate's Rights. Counsel, do you have any comments
4 or concerns regarding this inmate's ADA rights,
5 procedurally, understanding his ability to participate
6 in the Hearing?

7 **ATTORNEY TARDIFF:** No.

8 **PRESIDING COMMISSIONER BRYSON:** Are there any
9 preliminary objections?

10 **ATTORNEY TARDIFF:** No.

11 **PRESIDING COMMISSIONER BRYSON:** Will he be speaking
12 with the Panel today?

13 **ATTORNEY TARDIFF:** Yes.

14 **PRESIDING COMMISSIONER BRYSON:** All right, sir. If
15 you would raise your right hand. Do you solemnly swear
16 or affirm that the testimony you give at this Hearing
17 will be the truth, the whole truth, and nothing but the
18 truth?

19 **INMATE MCCLORE:** Yes.

20 **PRESIDING COMMISSIONER BRYSON:** I'm going to read
21 the crime as -- I'm going to read two sources, actually
22 (inaudible) this is important. First the probation
23 officer's report beginning on

24 **ATTORNEY TARDIFF:** It's hard to find the page on
25 that. It's kind of in the middle of the (inaudible).

26 **PRESIDING COMMISSIONER BRYSON:** (Inaudible.)

27 **ATTORNEY TARDIFF:** Here, do you want me to give it

1 to you? I think that's what you want.

2 **PRESIDING COMMISSIONER BRYSON:** That's what I
3 wanted. Elements. Thank you. This is page 2.

4 **ATTORNEY TARDIFF:** But it's really not..

5 **PRESIDING COMMISSIONER BRYSON:** It's really not.
6 Thank you. According to the police report:

7 "On November 26th, 1985, at about 1:15 p.m.,
8 the victim started to get out of her car in
9 Wendy's parking lot when codefendant Murphy ran
10 up and pushed her back inside. He forced her
11 over to the passenger's side, entered, and
12 grabbed her by the throat, forcing her to the
13 floorboard. He struck her in the face and
14 demanded her money. She said her purse was in
15 the trunk, and when he went to get it, he told
16 her not to try to get away, as, quotes, "I have
17 a gun, and I'll use it," end quote. While the
18 codefendant was getting property out of the
19 trunk, she noticed the defendant approach the
20 driver's side and watch her. When the
21 codefendant came back with her purse, he got
22 into the driver's seat. The defendant then
23 went around the passenger's side, opened the
24 door, and grabbed the victim by the arm,
25 forcing her to get into the backseat. He then
26 got into the front passenger's seat. He turned
27 toward the victim and said, "If you make a

1 stupid move" -- this is a quote -- "we're going
2 to kill you. We have a gun." End quote. They
3 then drove to a shopping area in San Fernando.
4 The codefendant had the victim exit the car and
5 put his arm around her neck. He told her to
6 act as if he were her boyfriend. The three
7 went into a sporting goods store where the
8 codefendant picked out three sweat suits and
9 had the victim pay for them. They then drove
10 to a shoe store, where the defendant took two
11 boxes of tennis shoes from the shelf and the
12 victim paid for them. As they were driving on
13 the Simi Freeway, they pulled off the road and
14 took jewelry from the victim. They then forced
15 her out of the car and drove off. The victim
16 fled down an embankment and phoned the police."

17 And now I'm going to also read the version of the
18 facts as stated in the Court of Appeals document,
19 2nd Appellate District Division III, People v. Wilbur
20 Lynn McClore. This was filed on February 10th of 1988.
21 Beginning on page 2, second line:

22 "It was established that approximately
23 11:00 a.m. on November 25th, 1985 (verbatim),
24 as Krispi, that's K-R-I-S-P-I, Boucher or
25 Bouker, B-O-U-C-H-E-R, was about to get out of
26 her car in a parking lot in a Wendy's
27 restaurant. A man came up to her, opened the

1 car door and demanded her purse and money.
2 When she responded she did not have her purse,
3 the man struck her across the face and forced
4 her by the neck into the passenger's seat.
5 Boucher gave of the man her keys and told him
6 her purse was in the trunk. While the man
7 opened trunk, Boucher saw the appellant outside
8 the passenger door to her car. Appellant
9 entered the passenger's side, and the other man
10 entered the car on the driver's side, and
11 pushed Boucher into the backseat. When Boucher
12 told the man, quotes, "Take my car, take
13 everything, just let me out," end quote, one of
14 the men responded, quotes, "Sit back, you're
15 going to go for a ride," end quote. As they
16 drove, appellant went through Boucher's purse,
17 taking the money from her wallet. Appellant
18 then demanded she write out a check for \$200
19 and gave it to him. Appellant ripped a
20 necklace from Boucher's neck, took the rings
21 from her fingers, and her watch. Thereafter,
22 Boucher and her kidnappers went to two stores,
23 where the men forced her to buy shoes and
24 clothing for them. Hours later, the men
25 released Boucher on the side of the freeway."
26 And at this time I'm also going to read into the
27 record a probation officer's list of prior, of the

10

1 inmate's prior criminal history. This is source from
2 the CINI document, the CINI printout of July 11th of
3 1984, L.A.P.D. And I'll read this and I'll refer to
4 this as well. As to the juvenile history, that's
5 unknown. As to the adult history, there's a
6 January 12th, 1982, L.A.P.D. arrest, which is 484 PC,
7 petty theft, and this involved credit cards; a warrant
8 was issued. Defendant states he was a driver of the
9 vehicle, the passenger paid for his gas with a stolen
10 credit card -- he didn't know it was stolen, was
11 convicted, sentenced to five days in jail and to pay
12 restitution to the gas station. Did you pay restitution
13 to the gas station on that?

14 **INMATE MCCLORE:** To be honest, I really don't
15 remember. It's been so long.

16 **PRESIDING COMMISSIONER BRYSON:** Okay.

17 **INMATE MCCLORE:** It's probably true.

18 **PRESIDING COMMISSIONER BRYSON:** Okay. March 7th, of
19 1982 -- so we're talking two months later -- then,
20 Modesto Sheriff's Office, he was arrested on 182.1,
21 that's penal code, conspiracy to commit a crime. 459
22 with penal code, PC 458, burglary, on June 13th of 1982.
23 The defendant was convicted of Penal Code 459 burglary,
24 second degree, and sentenced to state prison for a
25 period of two years. A mental note, there is a second
26 term on you. He was paroled on July 11th, 1982, L.A.
27 County. His expiration date, "if," I-F, I think that

11

1 means "is," tentatively, again, this is in the probation
2 officer's report, July of 1987. The defendant
3 burglarized his girlfriend's aunt's home in Modesto,
4 California. He had prior knowledge the aunt had a
5 security system in the home and numerous valuable items.
6 A safe containing important papers, jewelry, and cash
7 was stolen. Then on April 24th of 1984, the defendant's
8 parole was revoked by the parole board; he was sentenced
9 to one year in custody, and so forth. So, sir, let's go
10 back before -- you seemed to have issues with women; you
11 burglarized your girlfriend's aunt's home. How could
12 you do that?

13 **INMATE MCCLORE:** Well, at that time I was just out
14 of control. I was an angry individual, and I went
15 through -- at my last Hearing, Mrs. Fisher (phonetic)
16 gave me some good advice, and I really used it. I went
17 back through my Central Files, and I couldn't understand
18 that I was the person that had so little faith in my own
19 ability to do for myself, that I started living off of
20 other people. And, when it come to other people's
21 feelings, I was an angry person, didn't really care
22 about other people's feelings. And I truly come to
23 understand now how I hurt so many people that cared and
24 trusted in me. And that's basically what happened.

25 **PRESIDING COMMISSIONER BRYSON:** What were you angry
26 about?

27 **INMATE MCCLORE:** Not -- I used to have, I used to

12

1 work, I used to have good jobs. And I lost my job, I
2 couldn't get another job, and I just got angry because,
3 got mad, you know, at everybody. Took it out on
4 everybody, just being angry. Like I lost the ability to
5 go look for a job, be independent again.

6 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** (Inaudible) I
7 notice that the report from which you're reading is --
8 doesn't have his entire record. The next probation
9 report shows another entry on 3/22/84, the probation
10 reports of 3/10/87. In my file, it comes directly after
11 the one that --

12 **ATTORNEY TARDIFF:** If he -- actually, you should
13 probably just go to the first section --

14 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** (Inaudible.)

15 **ATTORNEY TARDIFF:** -- (inaudible) case summary.
16 That gives you the entire rap sheet.

17 **PRESIDING COMMISSIONER BRYSON:** Except that we
18 haven't gotten to that yet. You're talking about the
19 L.A.P.D., that was a March 22nd, 1982 --

20 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Oh, I'm sorry. I
21 thought that -- okay.

22 **PRESIDING COMMISSIONER BRYSON:** This is 1982.

23 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Right. I just --
24 I thought you were looking at that first probation
25 report, which doesn't even include that, that entry, and
26 that's why I just wanted to --

27 **PRESIDING COMMISSIONER BRYSON:** Okay.

1 DEPUTY DISTRICT ATTORNEY GLIDDEN: -- to see if you
2 were aware of that.

3 PRESIDING COMMISSIONER BRYSON: Thank you, I
4 appreciate that a lot.

5 DEPUTY DISTRICT ATTORNEY GLIDDEN: I'm sorry to
6 interrupt.

7 PRESIDING COMMISSIONER BRYSON: No problem. I just
8 haven't the gotten there yet. We're still on

9 DEPUTY DISTRICT ATTORNEY GLIDDEN: Okay.

10 PRESIDING COMMISSIONER BRYSON: I'm trying to
11 understand why --

12 DEPUTY DISTRICT ATTORNEY GLIDDEN: Thank you.
13 Sorry.

14 PRESIDING COMMISSIONER BRYSON: -- he, he's
15 burglarizing his girlfriend's --

16 DEPUTY DISTRICT ATTORNEY GLIDDEN: Yeah.

17 PRESIDING COMMISSIONER BRYSON: -- aunt. Okay. So,
18 what did the girlfriend think about this? Was your
19 girlfriend part of this?

20 INMATE MCCLORE: No, she wasn't part of it. That's
21 why I feel so bad, because I feel, I betrayed to her.
22 And I truly understand impact that I brought to her and
23 her family, I done did that. And she was just go
24 without -- which I understand, I accept full
25 responsibilities for that, that crime, and for what I
26 later (inaudible) and the whole thing. I don't have
27 anything to hide on that. I just was an angry person,

1 and took it out on her, and I betrayed her trust.

2 **PRESIDING COMMISSIONER BRYSON:** Well, that brings us
3 then to the, the next crime, which was actually the same
4 month -- this is March 22nd of 1984 -- I'm sorry, this
5 is two years later -- which was an L.A.P.D. arrest, for
6 Penal Code 266(h), pimping; and Penal Code 245, ADW.
7 This, what, what was this about? You forced the victim
8 into --

9 **INMATE MCCLORE:** (Inaudible.) What?

10 **PRESIDING COMMISSIONER BRYSON:** -- into
11 prostitution?

12 **INMATE MCCLORE:** No. When I met this lady, Violet
13 Gray (phonetic), she was already in prostitution. And I
14 just met her, and we just became friends. She had a
15 family that she brought with her from another state, and
16 we just friends. But I never forced her into
17 prostitution. And the pimping and pandering case was
18 dismissed on me. And, so I gave her money; she gave me
19 money. So, I really wasn't pimping.

20 **PRESIDING COMMISSIONER BRYSON:** Ah, now what
21 about -- okay, what about your prison term? Tell me
22 about the crime that got you into prison for life.

23 **INMATE MCCLORE:** On this, on the kidnapping?

24 **PRESIDING COMMISSIONER BRYSON:** You're a second,
25 your second commitment; are you not?

26 **ATTORNEY TARDIFF:** I guess the A-, a 245, the ADW,
27 which he was convicted of --

15

1 **PRESIDING COMMISSIONER BRYSON:** Uh-huh.

2 **ATTORNEY TARDIFF:** -- on that, on that 3/22/84
3 arrest, right?

4 **PRESIDING COMMISSIONER BRYSON:** Right.

5 **ATTORNEY TARDIFF:** So the pimping and the pandering.
6 And then he's got the ADW in addition, and that's what
7 he was convicted of.

8 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** But he did go to
9 prison.

10 **ATTORNEY TARDIFF:** Yeah, right.

11 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** The Commissioner
12 is referring to the '82 prison commitment.

13 **ATTORNEY TARDIFF:** Right.

14 **PRESIDING COMMISSIONER BRYSON:** The prison
15 commitment.

16 **ATTORNEY TARDIFF:** Okay.

17 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Yeah.

18 **PRESIDING COMMISSIONER BRYSON:** So, what I want to
19 know is ... because, okay, this was, this was burglary
20 second, correct?

21 **INMATE MCCLORE:** That's on the girlfriend.

22 **PRESIDING COMMISSIONER BRYSON:** Right.

23 **INMATE MCCLORE:** The burglary, right.

24 **PRESIDING COMMISSIONER BRYSON:** Okay.

25 **INMATE MCCLORE:** Okay.

26 **PRESIDING COMMISSIONER BRYSON:** So, well, I'm just
27 asking what, how did you come to do this crime? And you

1 said you were angry --

2 **INMATE MCCLORE:** Right.

3 **PRESIDING COMMISSIONER BRYSON:** -- but that doesn't
4 explain the crime. What, why were you in (inaudible) I
5 want you to describe what happened.

6 **INMATE MCCLORE:** What happened, I just, she went, I
7 needed some money, and I decided go ahead and do, do the
8 burglary because I needed the money. And I was angry at
9 the time, you know, like I said, I lost my job.

10 **PRESIDING COMMISSIONER BRYSON:** So how did you know
11 there was money? There was a safe involved here, right?

12 **INMATE MCCLORE:** Right.

13 **PRESIDING COMMISSIONER BRYSON:** What was that about?
14 And how did you know that, why did you target her? Why
15 didn't you -- why didn't you go to work?

16 **INMATE MCCLORE:** Exactly. That's what I'm saying, I
17 wish I would have went to work at that time, but --

18 **PRESIDING COMMISSIONER BRYSON:** Okay.

19 **INMATE MCCLORE:** -- I didn't have no money at the
20 time, and I lost my -- I had so little faith in my own
21 ability because I lost my job and I wasn't (inaudible).

22 **PRESIDING COMMISSIONER BRYSON:** How did you loose
23 your job? Why did you loose your job?

24 **INMATE MCCLORE:** Just not showing up, not being
25 responsible. I don't know how to keep the job.

26 **PRESIDING COMMISSIONER BRYSON:** What was the job
27 that you had?

17

1 **INMATE MCCLORE:** Well, I had one job working at
2 Kertech in San Fernando Valley on De Soto Street in
3 shipping and receiving, and I had another job working
4 at --

5 **PRESIDING COMMISSIONER BRYSON:** Which job did you
6 have at the time that you, just prior to being, to you
7 pulling this burglary. What was the last job you had?

8 **INMATE MCCLORE:** Kertech, working shipping and
9 receiving out in San Fernando Valley.

10 **PRESIDING COMMISSIONER BRYSON:** And what did you do
11 that they caused you to get fired there?

12 **INMATE MCCLORE:** I really don't -- I really didn't
13 get fired, I just got lazy. I got lazy, got tired of
14 working. I didn't get fired.

15 **PRESIDING COMMISSIONER BRYSON:** So you quit?

16 **INMATE MCCLORE:** Absolutely.

17 **PRESIDING COMMISSIONER BRYSON:** So, why were you
18 angry?

19 **INMATE MCCLORE:** Because like (inaudible), I should
20 have kept my job and stayed more responsible to my
21 family.

22 **PRESIDING COMMISSIONER BRYSON:** We know that now,
23 sir.

24 **INMATE MCCLORE:** Yeah.

25 **PRESIDING COMMISSIONER BRYSON:** We're trying to
26 understand if -- trying to understand where the true
27 source of your -- you said you were an angry young man,

1 why were you so angry?

2 **INMATE MCCLORE:** Well, basically because I didn't
3 know how to survive for myself, for keeping a job. I
4 didn't understand being independent, I strongly wanted
5 to be independent, to being a responsible person.

6 **PRESIDING COMMISSIONER BRYSON:** Okay. What I'm
7 building to, sir, is that this crime occurred when you
8 were 29-and-a-half basically, you were almost 30 years
9 old.

10 **INMATE MCCLORE:** Exactly.

11 **PRESIDING COMMISSIONER BRYSON:** That's not,
12 (inaudible) out of control, doesn't know what he's
13 doing. This is -- we're talking now of an adult who's
14 supposed to be mature.

15 **INMATE MCCLORE:** Absolutely. And I wasn't. I just
16 wasn't.

17 **PRESIDING COMMISSIONER BRYSON:** All right. Let's
18 talk about your personal history, okay? Oh, first, I'd
19 like to ask you a couple of questions about the crime
20 itself. According to the transcripts, the victim
21 reported that you told her, quotes, "We weren't going to
22 hurt you," and in your prisoner's version for the
23 October, 2004, report, you stated that you didn't
24 immediately know what the problem was in the offense,
25 and that in fact you wanted the Board to note that,
26 while you participated in crime, you showed compassion
27 toward the victim. You feel that way today?

1 INMATE MCCLORE: Yes.

2 ATTORNEY TARDIFF: May I interject for a --

3 PRESIDING COMMISSIONER BRYSON: Yes.

4 ATTORNEY TARDIFF: -- moment. There's a transcript
5 from the Initial Hearing. I have it here, and I can....
6 And this issue came up, and they asked that he put it on
7 record, this, the behavior he had towards the victim.
8 And why don't you tell them (inaudible). So, basically,
9 it starts at line 13, and it's from the, the Superior
10 Court transcript when they questioned the victim
11 regarding what Mr. McClore said to her. And this is her
12 testimony, and it starts on line 13.

13 PRESIDING COMMISSIONER BRYSON: Okay. This is the
14 attorney, McPherson (phonetic).

15 ATTORNEY TARDIFF: Right.

16 PRESIDING COMMISSIONER BRYSON: Presume (inaudible).
17 I presume the way this is -- I presume the way this is
18 the victim question that the victim -- what was the
19 first thing you remember him saying to you whether, it
20 was the first thing whether, it was the first thing or
21 not, the first thing you remember him saying to you.
22 The only thing I remember the passenger actually saying
23 to me was, he turned around and looked at me and he
24 says, quote, "Why are you crying? Why" -- dash, dash --
25 "we're not going to hurt you," end quotes. So that's
26 the first thing you remember him saying. Okay. And the
27 point of this is do you --

1 **ATTORNEY TARDIFF:** That's her testimony about what
2 he said to her.

3 **PRESIDING COMMISSIONER BRYSON:** Okay. And in fact
4 that's what's reflected here in the Board reports.

5 **ATTORNEY TARDIFF:** And as opposed to this statement
6 that he's supposedly said we're going to shoot you.

7 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** But I also have
8 another transcript which does reflect that she, he
9 threatened to --

10 **ATTORNEY TARDIFF:** Her statement?

11 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Yes. Her
12 testimony.

13 **ATTORNEY TARDIFF:** Okay. What's that about?

14 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** You know, it,
15 it's not the entire transcript, because I'm not sure if
16 it's the trial or the preliminary hearing.

17 **ATTORNEY TARDIFF:** Um-um.

18 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** But, I, I do have
19 it, and I have some things I plan to quote, and it talks
20 about --

21 **ATTORNEY TARDIFF:** So that's from the trial that
22 that transcript that was read into the record, the
23 first, at the Initial Hearing. And the victim states
24 that he never said anything about going to kill you.
25 And now you're saying you have other transcripts where
26 she does say

27 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I have the

1 transcript of the victim's testimony where she says --

2 **ATTORNEY TARDIFF:** Do we have that? We have that in
3 our packets, I think, right? Is that this -- right
4 after the Appellate Court decision?

5 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Yes. Correct.

6 **ATTORNEY TARDIFF:** Do you have a page number on
7 that? Right after the Appellate --

8 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Well, I have, I
9 have quotations from various locations in that
10 transcript, where he says -- but it goes, it's very
11 long, it's about a hundred, well --

12 **ATTORNEY TARDIFF:** Here's this --

13 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** It starts here on
14 page 159.

15 **ATTORNEY TARDIFF:** Right.

16 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Right.

17 **ATTORNEY TARDIFF:** And where's the lines, though,
18 where she says that he says these things?

19 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Ah ... okay.
20 Well, she goes, she describes -- let's see. Let's see.
21 Okay. Well, on

22 **PRESIDING COMMISSIONER BRYSON:** Well, on page 164,
23 "They told me to do exactly what they said, and if I
24 showed any fear and so forth, they would take my life,
25 so I did exactly what they asked."

26 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Right. Here's
27 another one, "When I got into the car he told me, he, he

1 told me not to try to get away because, quote, 'I have a
2 gun, and I'll use it.'" Inmate was also identified as
3 the person who ripped the jewelry from her neck.

4 **ATTORNEY TARDIFF:** Where are you reading that from?

5 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** Well --

6 **ATTORNEY TARDIFF:** What page?

7 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** -- I didn't note
8 the page. These are notes that I took from the
9 transcript that I have in here.

10 **ATTORNEY TARDIFF:** Okay. It's on page one -- okay,
11 they told me, the detective said ... well, they -- we
12 don't know if it's --

13 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** But then later in
14 the transcript she identifies, later on -- for some
15 reason they went through the whole thing and then they,
16 at the end, had her identify who does these things.
17 And, I, since -- I, several hours today, I went through
18 the transcript, and at the end it does talk about who
19 does it.

20 **PRESIDING COMMISSIONER BRYSON:** Well, if we may,
21 let's look at it this way: She was a woman --

22 **INMATE MCCLORE:** Exactly.

23 **PRESIDING COMMISSIONER BRYSON:** You were two strong,
24 young men --

25 **INMATE MCCLORE:** Absolutely.

26 **PRESIDING COMMISSIONER BRYSON:** You forced her into
27 the car, smashed her head down, you're grabbing stuff

1 off her, some kinds of threats were evidently made.
2 What woman would not be in fear for her life at that
3 time? So, it's, it's, I would submit to this Panel it's
4 moot as to whether, what exactly, who said exactly what
5 at what time. What is really offensive in this
6 proceeding is the concept of perhaps your, your role in
7 this was somewhat mitigated in that you showed
8 compassion. Frankly this Panel has difficulty seeing
9 compassion in your role in this at all. I mean,
10 regardless of what you told her -- because the typical
11 response for a victim undergoing that kind of force
12 would be, not to believe -- whatever came out of an
13 individual's, an aggressor's mouth at that point would
14 be countermanded by what's going on, physically, at that
15 point. And so, I'm --

16 **INMATE MCCLORE:** (Inaudible.)

17 **PRESIDING COMMISSIONER BRYSON:** -- no, I'm talking
18 to you for a moment. Okay, so, regardless of what you
19 had said, the idea that you're trying to comfort her, if
20 you really wanted to give her comfort, you would not
21 have engaged in this in the first place, number one, but
22 number two, you would have immediately assisted her to
23 get free, which you did not. You were a full partner,
24 obviously, and it's clear to this Panel, in this entire
25 event. Now, go ahead.

26 **INMATE MCCLORE:** I'm not here to change any facts --

27 **PRESIDING COMMISSIONER BRYSON:** Right.

1 **INMATE MCCLORE:** -- which you have on paperwork.

2 **PRESIDING COMMISSIONER BRYSON:** Okay.

3 **INMATE MCCLORE:** I accept full responsibility for
4 that crime, any other crime that I committed. I'm not
5 debating who said what or whatever.

6 **PRESIDING COMMISSIONER BRYSON:** Um-um.

7 **INMATE MCCLORE:** Again, I'm not here to change any
8 facts. I accept full responsibility for that crime, for
9 any crime that I've done, and I have -- my remorse is
10 very sincere for what I done.

11 **ATTORNEY TARDIFF:** But I think her question is this:
12 That if you're claiming that you showed compassion, she,
13 the Commissioner, is wondering how you showed compassion
14 by even participating at all in the crime. Right?

15 **PRESIDING COMMISSIONER BRYSON:** And that brings into
16 question if you understand the nature and magnitude of
17 the commitment offense. That's the issue here.

18 **INMATE MCCLORE:** Right. And I understand that.

19 **ATTORNEY TARDIFF:** So can you answer the question,
20 then, I guess, you know, he's still -- in terms of the
21 compassion -- I don't know, I mean I can't drag it out
22 of you, but compassion is not shown by doing this crime.

23 **INMATE MCCLORE:** Absolutely. And I do, and --

24 **ATTORNEY TARDIFF:** So when you're saying,
25 compassion, what do you mean?

26 **INMATE MCCLORE:** I was having empathy for what, for
27 the victim what she was going through. It's just that I

1 still went through it and I didn't really want go
2 through it, and I did it, and I'm sorry for it. But I,
3 I understand that doing the crime and what she went
4 through, it was traumatized to her mentally.

5 **ATTORNEY TARDIFF:** So you mean you have compassion
6 now or at the time of the commitment offense you felt --

7 **INMATE MCCLORE:** At the time now. Right now.

8 **ATTORNEY TARDIFF:** Okay. So then ... may I? Just,
9 if --

10 **PRESIDING COMMISSIONER BRYSON:** Go ahead, although
11 your --

12 **ATTORNEY TARDIFF:** I'm (inaudible) --

13 **PRESIDING COMMISSIONER BRYSON:** -- you actually
14 (inaudible) mouth --

15 **ATTORNEY TARDIFF:** -- I'm trying not to.

16 **INMATE MCCLORE:** Yeah, but see, (inaudible) --
17 like --

18 **ATTORNEY TARDIFF:** I won't ask --

19 **INMATE MCCLORE:** -- like when you read the case
20 off --

21 **PRESIDING COMMISSIONER BRYSON:** Yeah.

22 **INMATE MCCLORE:** -- the facts is the facts, and I'm
23 here to agree to it. Whether it's right, what they,
24 what she testified in the transcript or what the
25 probation said or whatever was said, at that time I was
26 out of control, I didn't have compassion because I went
27 along with the crime with the -- with the other

1 individual. Today I have much compassion, empathy,
2 remorse, everything that I can think of to what I done
3 to this victim at that particular time.

4 **ATTORNEY TARDIFF:** But that's not she -- this is
5 what she wants to know: He stated that he would like
6 the Board to note that while he participated in the
7 crime, he showed compassion towards the victim. That's
8 what you're specifically asked to address. Do you
9 understand that?

10 **INMATE MCCLORE:** Right. And the compassion -- the
11 only thing I feel when I just turned around, told her
12 not to be crying, because we're not going to hurt you.
13 And I insured that she didn't get hurt. That's the
14 compassion that I had, that I felt at that time. She
15 wasn't going to be hurt, and she never got hurt. And
16 that's what I told her, and I meant it, and she never
17 got hurt. That's my compassion to her. And I made sure
18 that she wasn't going to be hurt by me or my crime
19 partner.

20 **PRESIDING COMMISSIONER BRYSON:** What do you mean by
21 hurt?

22 **INMATE MCCLORE:** Hurt in any kind of ways, you know,
23 far as -- whatever I, whatever he, my (inaudible) what
24 he like to do, or, or anything, in my control, that I
25 made sure that he didn't go no further than what we did
26 in the crime. As far as not being raped or being hit or
27 beat up, that was never going to happen, and I assured

1 that to her, to stop crying, that she wasn't going to be
2 hurt. That's my compassion to her. And I made sure of
3 that. And that's why we let her go. It wasn't that she
4 had escaped, she had to jump out the car, or nothing
5 like that. That's my compassion to her what I told her,
6 and I meant that.

7 **PRESIDING COMMISSIONER BRYSON:** See, that, that
8 still brings me questions, sir, if you really
9 understand, because this is -- let me go to the other
10 crime, the noncontrolling case, the ADW case, where the
11 victim was a Bonnie Bray (phonetic). About how old was
12 she? Do you remember? Approximately.

13 **INMATE MCCLORE:** She was about mid-30s.

14 **PRESIDING COMMISSIONER BRYSON:** Okay. And, do you,
15 I don't understand, really, your involvement in this
16 crime if you are claiming that in fact you weren't
17 forcing her into prostitution, and I have no idea what
18 assaulting her with a telephone meant. So maybe you
19 could elaborate a little bit on what happened there.

20 **INMATE MCCLORE:** Okay. When it come to telephone, I
21 admit that I hit her with the telephone. I was on the
22 telephone talking some business or something. She was
23 sitting next to me.

24 **PRESIDING COMMISSIONER BRYSON:** You were talking
25 some business --

26 **INMATE MCCLORE:** To a friend of mine on the
27 telephone. And she was trying to get my attention, she

1 kept trying to get my attention. And I turned around
2 and I told her, (inaudible) at the time, stop. So I
3 just spontaneously turned around, and tapped her on the
4 leg and told her to stop. And that's what it was.

5 **PRESIDING COMMISSIONER BRYSON:** Tapped on what, I'm
6 sorry.

7 **INMATE MCCLORE:** I tapped on her leg with the
8 telephone.

9 **PRESIDING COMMISSIONER BRYSON:** On the leg, on her
10 leg, you tapped her?

11 **INMATE MCCLORE:** Right. I hit the telephone on the
12 leg, but it wasn't no, like she had to go the doctor,
13 there wasn't no swelling, there wasn't no injury of
14 anything. Just tapped her on the leg with the
15 telephone. Then she stopped.

16 **PRESIDING COMMISSIONER BRYSON:** How did that turn
17 into ADW?

18 **INMATE MCCLORE:** That's all it is. That's what I
19 did, that convicted me of. They said it was assault
20 with a great bodily -- I don't understand it neither.
21 There's not a doctor's report. That's all I did, bam.

22 **PRESIDING COMMISSIONER BRYSON:** What did she do?

23 **INMATE MCCLORE:** She stopped after that.

24 **PRESIDING COMMISSIONER BRYSON:** How did this turn
25 into a crime?

26 **INMATE MCCLORE:** She went and turned me in for the
27 pimping and pandering case. And they found me guilty of

1 that; they dropped the pimping and pandering and found
2 me guilty of assault. And they said it was great bodily
3 injury.

4 **PRESIDING COMMISSIONER BRYSON:** For the
5 transcriptionist, do you mean pimping and pandering?

6 **INMATE MCCLORE:** Right.

7 **PRESIDING COMMISSIONER BRYSON:** This being
8 P-A-N-D-E-R-I-N-G. Then you said, "There's no way in
9 the world I would deal with this woman; she weighed 300
10 pounds, and was taller than me." What, what was the
11 circumstance

12 **INMATE MCCLORE:** Huh?

13 **PRESIDING COMMISSIONER BRYSON:** This is not funny,
14 but it's just amazing to me that you are dealing with
15 this this way. What were the circumstances after -- you
16 smacked her on the thigh with the telephone --

17 **INMATE MCCLORE:** Right.

18 **PRESIDING COMMISSIONER BRYSON:** -- now, did she call
19 the police? What happened after that?

20 **INMATE MCCLORE:** After that --

21 **PRESIDING COMMISSIONER BRYSON:** Well --

22 **INMATE MCCLORE:** -- didn't, didn't anything happen.
23 What happened was she came with the pimping and
24 pandering case and charged me for pimping and pandering.

25 **PRESIDING COMMISSIONER BRYSON:** Wait a minute. She
26 came with the pimping and --

27 **INMATE MCCLORE:** Pandering case.

1 **PRESIDING COMMISSIONER BRYSON:** -- pandering case.

2 **INMATE MCCLORE:** Right.

3 **PRESIDING COMMISSIONER BRYSON:** Well, when did she
4 go to the police? The next day, the next week, a year
5 later, what happened?

6 **INMATE MCCLORE:** She went to them, I guess, a week
7 later.

8 **PRESIDING COMMISSIONER BRYSON:** And why would she
9 do -- why would she go to the police? Why did she go to
10 the police, do you know?

11 **INMATE MCCLORE:** Because we was breaking up,
12 basically. I didn't want to have nothing do with her no
13 more, so I guess she went back to get back at me. She
14 went and got the police, said I was pimping her, and
15 they come arrested me at my auntie's house. And while I
16 was in the county jail going to court, they dropped the
17 pimping and pandering, but they charged me with the
18 assault. That's what happened. That's on the
19 paperwork.

20 **PRESIDING COMMISSIONER BRYSON:** Now, I will tell you
21 that the law enforcement agencies do not charge people
22 with crimes unless they have some evidence. So if in
23 fact you tapped her on the thigh with the telephone --

24 **INMATE MCCLORE:** Right.

25 **PRESIDING COMMISSIONER BRYSON:** -- and she had no
26 evidence of that, they wouldn't charge you with that,
27 sir. It's, it stretches belief to believe that in fact

1 they would do that. There has to be evidence to charge
2 people with a, certain crimes, so

3 **INMATE MCCLORE:** You mean for the assault? And I
4 admitted to the assault. I told you yes, I hit her on
5 the leg with the telephone.

6 **PRESIDING COMMISSIONER BRYSON:** You said you --
7 after.

8 **INMATE MCCLORE:** Okay, when I hit on the leg with
9 the telephone -- one time. And that's it. And they
10 gave me assault with a deadly weapon.

11 **ATTORNEY TARDIFF:** And did you plead on it? Or did
12 you go to trial?

13 **INMATE MCCLORE:** No, I pleaded on it.

14 **PRESIDING COMMISSIONER BRYSON:** You know what
15 pleading and plea-ing means? What a plea means? Do you
16 know what that means? What?

17 **INMATE MCCLORE:** It mean that without trial, admit
18 to the crime.

19 **PRESIDING COMMISSIONER BRYSON:** You admitted.

20 **INMATE MCCLORE:** Right.

21 **PRESIDING COMMISSIONER BRYSON:** Right.

22 **ATTORNEY TARDIFF:** So why would you admit to
23 something as minor as a tap on the leg? Because they
24 cut you a deal?

25 **INMATE MCCLORE:** Right. Well, no, they didn't cut
26 no deal, they --

27 **ATTORNEY TARDIFF:** They just give a pimping and

1 pandering for --

2 **INMATE MCCLORE:** Right. They dropped the pimping
3 and pandering case, and, and my lawyer told me they
4 would drop the pimping and pandering case if you agree
5 to the assault and battery, and that's what I did. But
6 let me say something to you.

7 **PRESIDING COMMISSIONER BRYSON:** Go ahead.

8 **INMATE MCCLORE:** I don't want to be, look like a
9 clown or being confusing to the Parole Board. I am a
10 different person who I was back then. And that's really
11 why I come in today, to say no matter what I did back
12 then, no matter how strange it sound from my mouth or on
13 the paperwork, I admit to everything. But I want you to
14 note that -- the new person who I am today. I have no
15 problem about my history. And I want, I know some time
16 that the past got to stop influencing the present, and
17 I'm trying to do that today. I don't understand any
18 different terminology on the paperwork or different
19 statements being said, all that. I'm just -- I want to
20 get that behind me.

21 **PRESIDING COMMISSIONER BRYSON:** Let me tell you why,
22 sir.

23 **INMATE MCCLORE:** Okay.

24 **PRESIDING COMMISSIONER BRYSON:** Okay. Because you
25 have some serious criminal history --

26 **INMATE MCCLORE:** I do.

27 **PRESIDING COMMISSIONER BRYSON:** -- with crimes

1 against women.

2 **INMATE MCCLORE:** I do, and I admit to that.

3 **PRESIDING COMMISSIONER BRYSON:** And whether it's
4 against men or women, it doesn't matter --

5 **INMATE MCCLORE:** Absolutely.

6 **PRESIDING COMMISSIONER BRYSON:** -- but the fact is
7 it, it happened to be against women. Now, also, in your
8 history here we have, you were born in Tennessee, the
9 fifth of six children, you graduated -- excuse me you
10 went through to the 11th grade, at the age of 18 came to
11 California and you married an Ethen Neely (phonetic)
12 that same year, and you had a child.

13 **INMATE MCCLORE:** Absolutely.

14 **PRESIDING COMMISSIONER BRYSON:** All right. Then you
15 divorced in 1980. Then you began a common law
16 relationship with Mona Saunwell (phonetic) for two
17 years. You had a child with her, and a son. So that
18 relationship didn't last. Now, the concern here, sir,
19 to be very frank, is how you dealt with your whole
20 criminal history and including your noncriminal personal
21 history -- in a way that assures this Panel that you're
22 not going to go out again and commit, first of all, any
23 crime, but then a crime against women, because that's
24 what, because women -- it appears that in certain ways,
25 you prey upon women, you take advantage of women. And
26 we have to look and see do you really understand what
27 you've done here. Now let me ask you, you divorced

1 your, you, you were first married, and how, why, why did
2 you divorce? What happened there?

3 INMATE MCCLORE: Well, we just wasn't getting along
4 any more. We just weren't getting along.

5 PRESIDING COMMISSIONER BRYSON: You weren't -- okay.
6 You weren't getting along --

7 INMATE MCCLORE: Right.

8 PRESIDING COMMISSIONER BRYSON: -- so the --

9 INMATE MCCLORE: (Inaudible.)

10 PRESIDING COMMISSIONER BRYSON: Were you working?

11 INMATE MCCLORE: Yes.

12 PRESIDING COMMISSIONER BRYSON: Okay. And so you
13 had a child together, which is a lot of responsibility.

14 INMATE MCCLORE: It is.

15 PRESIDING COMMISSIONER BRYSON: And how old were you
16 at that time? It looks like you were about 21 or so at
17 that time?

18 INMATE MCCLORE: Yes.

19 PRESIDING COMMISSIONER BRYSON: And that lasted for
20 approximately four years and before you were divorced.
21 So, did you try to get custody of the child?

22 INMATE MCCLORE: No.

23 PRESIDING COMMISSIONER BRYSON: Were you, did you
24 contribute to the upbringing of --

25 INMATE MCCLORE: Yes, I did.

26 PRESIDING COMMISSIONER BRYSON: -- the child? You
27 did. Did you pay regular support for the child?

1 **INMATE MCCLORE:** Right. Right, yes, yes I did.

2 **PRESIDING COMMISSIONER BRYSON:** So if we looked into
3 the records we would find out that you --

4 **INMATE MCCLORE:** I don't know if it's in the
5 record --

6 **PRESIDING COMMISSIONER BRYSON:** (Inaudible.)

7 **INMATE MCCLORE:** -- but I did do for my child as
8 much as I did, I do, I could. I gave them money and
9 love and support and things like that. On my own.
10 But

11 **PRESIDING COMMISSIONER BRYSON:** Then you got
12 another, you had a relationship from '82 to '84 in which
13 you had a child, a son. What happened to that
14 relationship?

15 **INMATE MCCLORE:** We fell apart.

16 **PRESIDING COMMISSIONER BRYSON:** Why?

17 **INMATE MCCLORE:** Because we just wasn't, weren't
18 getting along.

19 **PRESIDING COMMISSIONER BRYSON:** And did you
20 contribute to the raising of that child?

21 **INMATE MCCLORE:** No, he was about one years old,
22 then I caught this case.

23 **PRESIDING COMMISSIONER BRYSON:** Okay. Do you see
24 the pattern here?

25 **INMATE MCCLORE:** Yes, and I was going to get to
26 that. When, when Commissioner Fisher was here at the
27 last Hearing, she gave me some very good advice, and I

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1 appreciate that. I went back to my Central File,
2 exactly what she said, and I found what you saying, and
3 before I got around to it, and you, you said it
4 yourself, I did -- it, it was a pattern on women. And I
5 had a little bit of faith in my own, and I started
6 living off of other people. And it was a pattern, with
7 females, and I admit that. And I saw that in my
8 Central File. Exactly the file what you read, because
9 it said I was a predator. And I, I'm not denying none
10 of it, the things I used to be. I understand that. I
11 had a very terrible criminal background, it's bad, the
12 crime I did, whatever I did. I'm not here to change
13 anything. But that's, when I went back and saw what I
14 read in the transcript, I was ashamed of myself and how
15 I used to live and what I did. And a lot things you're
16 asking me right now, I just forget. It's just been so
17 long time ago and I forgot and I don't have no excuse
18 for. But I did go back to my Central File and read
19 exactly what you, what you saying about the pattern on
20 females --

21 **PRESIDING COMMISSIONER BRYSON:** Well, sir, the
22 words --

23 **INMATE MCCLORE:** -- and --

24 **PRESIDING COMMISSIONER BRYSON:** -- "I take full
25 responsibility" flow out of the mouth very easily. The
26 issue becomes we have to, have to see, and it's very
27 difficult to assess. That's what makes it difficult, is

1 that obviously, in here there are no women, you don't
2 associate with women on the, in the majority -- there
3 are a few, but very few. And so, your understanding
4 becomes the big issue. Do you really understand what
5 was going on with you --

6 **INMATE MCCLORE:** Absolutely. And I agree with that.
7 There was a pattern of females.

8 **PRESIDING COMMISSIONER BRYSON:** Why?

9 **INMATE MCCLORE:** Mainly because there was more, in
10 my life at the time, females. You know, I had no
11 problem having a girlfriend, and I didn't kick it with a
12 lot individual men, and that what it was, and

13 **PRESIDING COMMISSIONER BRYSON:** What was your mother
14 and father's relationship?

15 **INMATE MCCLORE:** It was good.

16 **PRESIDING COMMISSIONER BRYSON:** Did your father
17 abuse your mother?

18 **INMATE MCCLORE:** No.

19 **PRESIDING COMMISSIONER BRYSON:** Did your father ever
20 (inaudible)?

21 **INMATE MCCLORE:** No.

22 **PRESIDING COMMISSIONER BRYSON:** Your, your children?

23 **INMATE MCCLORE:** No.

24 **PRESIDING COMMISSIONER BRYSON:** Let's see, you don't
25 have your parents any more; is that correct?

26 **INMATE MCCLORE:** Yes.

27 **PRESIDING COMMISSIONER BRYSON:** And how about your

1 siblings, your brothers and sisters?

2 INMATE MCCLORE: Well, my older sister just passed
3 away about three years ago. And I have, I have four
4 brothers still alive.

5 PRESIDING COMMISSIONER BRYSON: How are they doing?

6 INMATE MCCLORE: Doing good.

7 PRESIDING COMMISSIONER BRYSON: What are they doing?

8 INMATE MCCLORE: I have a brother working, he's a
9 architecture for Exxon, gas company in Lawford
10 (phonetic), Texas; and my other brother, he's a car
11 dealer in Memphis, Tennessee.

12 PRESIDING COMMISSIONER BRYSON: All right. At one
13 point you were hoping to get back to Tennessee.

14 INMATE MCCLORE: Absolutely, yes.

15 PRESIDING COMMISSIONER BRYSON: You still hoping to
16 do that at --

17 INMATE MCCLORE: Yeah.

18 PRESIDING COMMISSIONER BRYSON: -- at some point?

19 INMATE MCCLORE: Yes.

20 PRESIDING COMMISSIONER BRYSON: Okay. It says that
21 your employment history consists of construction, spray
22 painter, assembly line worker, and working in the family
23 grocery store. You also claim skills as a janitor,
24 stock clerk, and pipe fitter. But is that accurate?

25 INMATE MCCLORE: Yes.

26 PRESIDING COMMISSIONER BRYSON: All those past
27 experiences?

1 INMATE MCCLORE: Yes.

2 PRESIDING COMMISSIONER BRYSON: Okay. Is there
3 anything else about your personal history that you want
4 this Board to know that would give more understanding of
5 what you're about?

6 INMATE MCCLORE: No. About my past history?

7 PRESIDING COMMISSIONER BRYSON: Right. Because
8 that's, that's what made you, the person that's sitting
9 in front of us today.

10 INMATE MCCLORE: Right.

11 PRESIDING COMMISSIONER BRYSON: And none of us can
12 really escape our past --

13 INMATE MCCLORE: Absolutely.

14 PRESIDING COMMISSIONER BRYSON: -- so -- and
15 forgetting about it means that we are doomed to re-live
16 it, frankly, based on our past. So it's a good thing to
17 be able to look back and say, you know, what was going
18 on with me or you, at that time. And that's why there's
19 concern because why would you be so angry? You
20 apparently had a good mother and father who must have
21 taught you right from wrong. Your father, you said,
22 treated your mother well --

23 INMATE MCCLORE: Yeah.

24 PRESIDING COMMISSIONER BRYSON: -- is that correct?

25 INMATE MCCLORE: Yes.

26 PRESIDING COMMISSIONER BRYSON: So it's hard to see
27 where this violence came from, and where this antipathy

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1 to women, it's hard to see where that came from. It's
2 hard, because I don't see it in your past, really. So
3 have you thought about that?

4 **INMATE MCCLORE:** Yes, I have. And I, sometime I
5 wonder myself. And that's, all the insight that I went
6 to, is when I went back and looked like, in Ms. Fisher
7 told me to do, and I went back to my Central File, and I
8 understood. And I'm not here to say anything different
9 from what you saying, but so much that happened in my
10 life since I been in prison, I can't remember a lot of
11 things that you was asking me. And when it come to
12 female, you right, I did -- it was, I had a pattern with
13 females. I see that myself. And I respect that. I
14 didn't understand love -- I didn't care. The word love,
15 I really didn't love; I just got in relationships and I
16 just did what I did. I wish I would have understood
17 love and being respectful toward other people
18 (inaudible). I just didn't. So I'm here today to say
19 that I understand that. And I'm a new person today, and
20 I like -- you know, I want to move forward and accept my
21 responsibility and go from there. And the only way I
22 can to do that, I got to get rid of my bad personality
23 so the good will have room to grow. And that's all I'm
24 trying to prove today. I understand everything you
25 saying. I'm not here to change anything but to let you
26 know I have changed to a better person. And you
27 probably know my history, the pattern on the female, the

1 problem with a lot of things that I can't change. And
2 I'm not disagreeing with you about none of it. I did
3 those things.

4 **PRESIDING COMMISSIONER BRYSON:** Sir, the prior
5 Panels have had a major issue with your insight into
6 the --

7 **INMATE MCCLORE:** Absolutely.

8 **PRESIDING COMMISSIONER BRYSON:** -- (inaudible).

9 **INMATE MCCLORE:** Right.

10 **PRESIDING COMMISSIONER BRYSON:** That's, that's what
11 (inaudible). So we're not hounding on anything. But I
12 think at this point, it would be good to talk about your
13 adjustment life since incarcerated for the second time.
14 And so if you'll turn your attention to Commissioner
15 Thompson, please.

16 **DEPUTY COMMISSIONER THOMPSON:** Thank you. Well,
17 we're looking at the period of time of September the
18 12th, 2005, through today, which is January the 3rd,
19 2007. And with respect to the Board report that was
20 signed off on May the 26th of 2006, that's the most
21 recent one. It's in here at Correctional Training
22 Facility your custody is Medium-A; you're the
23 mandatory 19 classification score, if I remember
24 correctly, and if that's not right, feel free to tell me
25 otherwise. And as far as Vocational Training, they say
26 during the period covered that there has been no record
27 of Vocational Training. Academics, same remark in the

1 work record. You continue your full time assignment
2 working as a Photographer in the visiting room. You
3 receive high marks for that. Your supervisor thinks
4 you're very perceptive, you're efficient, you're
5 respected, you work well with the people that are there;
6 he's written you several laudatory chronos. So, you do
7 that work very well, apparently. As far as group
8 activities, you began Anger Management, apparently, in
9 the period of March of 2006, and you received a
10 certificate for completing all of the segments in Anger
11 Management, which is referred here a laudatory general
12 chrono saying that you did complete the whole program
13 and you are to be "commended for his participation in
14 this program." So this program apparently began in
15 March of 2006, and ended on October the 5th, 2006. And
16 there has been no other program that I can find that you
17 did after 2006, October. And whoops The -- no
18 psych treatment is noted during this period, or I think
19 any time since you've been in; I don't see that psych
20 treatment was ever extended to you. And your prison
21 behavior has been exemplary since 1997. You have had
22 six 115s, and the last one was March the 6th of 1997 --
23 I'm sorry, it says 2007, that's incorrect -- your last
24 CDC 115 was in March 6th, 1997, was for failure to
25 participate, and you have a 30-day loss of credit.
26 There's only one, which occurred February the 25th,
27 1994, when you were at CSP, Corcoran, and that was for

1 an assault and battery causing great bodily harm. That
2 was assessed, found you guilty, and you lost 90 days of
3 credit on that one. The other ones were, well, there
4 was home brew, there was destroying state property,
5 there was refusing to perform assigned duties, and there
6 was being out of bounds. They are small matters; there
7 was the one issue of violence. And nothing, as I say,
8 since 1997. Is anything of that incorrect, or does it
9 need --

10 INMATE MCCLORE: You said 1997, the last
11 disciplinary?

12 DEPUTY COMMISSIONER THOMPSON: Is the last
13 disciplinary.

14 INMATE MCCLORE: I never got a disciplinary in 1997.
15 It just, it, '97 just started (verbatim).

16 DEPUTY COMMISSIONER THOMPSON: No.

17 ATTORNEY TARDIFF: Are you talking about a 115 or
18 128?

19 DEPUTY COMMISSIONER THOMPSON: Well, this is all
20 listed in --

21 INMATE MCCLORE: Oh, yeah, 1997, at Avenal State
22 Prison.

23 DEPUTY COMMISSIONER THOMPSON: Right.

24 INMATE MCCLORE: That's right, okay.

25 DEPUTY COMMISSIONER THOMPSON: Yeah, that was --

26 ATTORNEY TARDIFF: Failure to participate.

27 DEPUTY COMMISSIONER THOMPSON: They don't, they

1 don't show him as having any 128(a)s or counseling
2 chronos. These are all listed as 115s, and none
3 since --

4 INMATE MCCLORE: Right.

5 DEPUTY COMMISSIONER THOMPSON: -- the one we just
6 mentioned.

7 INMATE MCCLORE: I think two, two or three of those
8 was from the --

9 PRESIDING COMMISSIONER BRYSON: Yeah.

10 INMATE MCCLORE: -- first one.

11 PRESIDING COMMISSIONER BRYSON: Yeah, the first two
12 (inaudible).

13 INMATE MCCLORE: Right.

14 PRESIDING COMMISSIONER BRYSON: So really, four
15 since your present (inaudible).

16 INMATE MCCLORE: Okay.

17 PRESIDING COMMISSIONER BRYSON: Yes, we have that.

18 DEPUTY COMMISSIONER THOMPSON: Okay. And with my
19 general running down what's been true, at least since
20 9- 5 -- 9 '05 to today, are you satisfied that as
21 explaining your behavior, progress, and involvement with
22 you? All right. Over the period of your entry into the
23 system and through October of 2006, you accumulated
24 five, ten, 12, 14 laudatory chronos for work performance
25 for participation in programs and general conduct and
26 behavior in the prison system. And I do believe that
27 covers basically what's being going on with you at least

45

1 since September of '05 through today, and further back
2 in some areas such as the (inaudible). Any, anything on
3 that? Any changes, any clarifications?

4 **INMATE MCCLORE:** No.

5 **DEPUTY COMMISSIONER THOMPSON:** All right. Then I'll
6 turn to your psychiatric evaluation. And that was
7 prepared on October the 7th, 2003. Clinical assessment,
8 at that time on the diagnostic impression, Axis I, No
9 Contributory Clinical Disorder, and that's mental
10 disease; Axis II, Adult Antisocial Personality Behavior
11 by History Only; and on Axis III, physical basis for any
12 kind of your behavior, No Contributory Physical
13 Disorder; the External Stressor on Axis IV is
14 incarceration. However, your Global Assessment of
15 Functioning, which is how you perceive the world, you
16 have a 90, which is a fantastic score; a hundred is the
17 best one can do. Now, you, it says, "Inmate McClore's
18 parole prognosis is excellent. There is virtually no
19 indication suggesting otherwise. He has participated in
20 virtually every activity or self-help group available at
21 this facility." I didn't find quite such a rich trace
22 in looking backward and forward, but the recent Anger
23 Management is certainly verified, and I think they
24 referred to your having gone to self-help. Now they say
25 there is nothing in this report, no further self-help
26 groups. You seem to have attained great strides in your
27 personal development. Laudatory chronos, beginning with

1 your entry into the system and then up to the year 2000,
2 and up to 2000, and then there seems to be a gap, at
3 least as far as I could find, that you didn't receive
4 any until October of last year, in which there was two,
5 one related to work performance, and one to completion
6 of the program, Anger Management. Assessment of
7 Dangerousness says, "Inmate McClore has received no
8 CDC 115s or 128s in almost seven years. His last
9 CDC 115 was relatively minor, involved in taking too
10 long in an education class." And it, again, says, "You
11 are a good candidate for release and have been a good
12 citizen in prison. "If referred to the community, the
13 inmate possesses no more threat of violence or
14 dangerousness than any other citizen in the community."
15 Normally that would have been a pretty ringing
16 endorsement. The citizens of the community aren't quite
17 so reliable in comparison anymore. Clinical
18 observation:

19 "Inmate McClore is competent and responsible
20 for his behavior. He has demonstrated a clear
21 ability to abide by institutional standards,
22 and has done so through the majority of his
23 incarceration. The inmate does not have a
24 mental health disorder, which would necessitate
25 treatment either during incarceration or
26 following it. Inmate McClore does not have a
27 alcohol or drug problem that would necessitate

1 treatment either during his incarceration or
2 following it. And at the same time he has
3 availed himself of all self-help and
4 psychological assistance that can be offered by
5 CDC, and there are no additional services that
6 could be provided to him. He appears to be an
7 excellent candidate for parole."

8 And that was prepared by an S. Sexton, Ph.D.,
9 consulting psychologist at this facility, countersigned
10 by a B. Zika, Z-I-K-A, Ph.D., Correctional Training
11 Facility Senior Supervising Psychologist. Did you read
12 that report?

13 **INMATE MCCLORE:** Yes.

14 **DEPUTY COMMISSIONER THOMPSON:** And now, any
15 questions, additions, or clarifications?

16 **INMATE MCCLORE:** No.

17 **DEPUTY COMMISSIONER THOMPSON:** I'll refer to you to
18 the Chair.

19 **PRESIDING COMMISSIONER BRYSON:** All right. Thank
20 you. It's really interesting to me that on page 3 of
21 that report under Substance Abuse History, the clinician
22 says, "Thorough review reveals no history of substance
23 abuse." Actually, two of your 115s were pruno; they
24 were within a very short time span. What was that
25 about?

26 **INMATE MCCLORE:** It's -- if you read the 115, you
27 can clearly see that, they moved me to a cell where the

1 inmate that was making pruno. So when they gave me the
2 115, it was a new procedures that came inside the
3 institution, whatever they find in a cell belong to both
4 you guys, if someone got moved in there. So when they
5 found the pruno, gave me the 115. The inmate came to my
6 hearing to testify that the pruno belongs to him; it
7 said in the 115. That's why, I, I know that I'm not
8 believable because I'm an inmate, but if people read the
9 paperwork, that document, the 115, it clearly states
10 that. But they still found me guilty anyway of the 115.

11 **PRESIDING COMMISSIONER BRYSON:** There are two 115s.

12 **INMATE MCCLORE:** Right. The one for state property,
13 I believe, and pruno. But he come to testify, and it's
14 supposed to be on the 115 in the deposition of the 115.

15 **PRESIDING COMMISSIONER BRYSON:** Destroyed state
16 property, home brewing in cell. The next one is home
17 brewing in cell.

18 **INMATE MCCLORE:** Right, absolutely.

19 **PRESIDING COMMISSIONER BRYSON:** And those were the
20 21st and the 26th.

21 **INMATE MCCLORE:** And the inmate -- right. The
22 inmate was supposed to -- he came to the hearing and
23 testified that the home brew belonged to him.

24 **PRESIDING COMMISSIONER BRYSON:** Both times?

25 **INMATE MCCLORE:** Right. Because I moved into the
26 cell and he was already had it in his cell I think about
27 two, three weeks, or something like that. And they came

1 and searched it and there it was. He already had it in
2 his cell.

3 **PRESIDING COMMISSIONER BRYSON:** Two or three weeks
4 after you moved in with him?

5 **INMATE MCCLORE:** Yeah. Something like that, yeah.

6 **PRESIDING COMMISSIONER BRYSON:** So why were there
7 two, though. That takes care of one or explains, could
8 explain one incident, but --

9 **INMATE MCCLORE:** Exactly.

10 **PRESIDING COMMISSIONER BRYSON:** -- how, what
11 happened on the next incident?

12 **INMATE MCCLORE:** He, he was still making it. But
13 they, like I was trying got out of the cell, but the
14 cell moving, it take time, to get the cell move. So
15 when you put the paperwork in, to get the cell move,
16 it's not going to happen just like that.

17 **PRESIDING COMMISSIONER BRYSON:** Did you, did you
18 know that he was making this?

19 **INMATE MCCLORE:** Absolutely, yeah. But I can't stop
20 him, because he much bigger than me, and I ain't going
21 to try to jump on nobody and tell what they can't do or
22 not; not being in prison. So I asked him not to do it,
23 that's all I can do. And he still want to do it.

24 **PRESIDING COMMISSIONER BRYSON:** When you first came
25 in, did you know he was brewing it?

26 **INMATE MCCLORE:** No.

27 **PRESIDING COMMISSIONER BRYSON:** Which I don't

1 believe. Because you can smell it (inaudible). So when
2 you're brewing pruno, you can smell it. So please don't
3 tell me you didn't know if there was pruno in the cell
4 when you walked in.

5 **INMATE MCCLORE:** Excuse me.

6 **PRESIDING COMMISSIONER BRYSON:** Yes.

7 **INMATE MCCLORE:** I know I'm going to be denied at
8 this Hearing because I can clearly see there's nothing I
9 can say far as credit, guilty of what I say. When I
10 first move in that man's cell, it wasn't no pruno in
11 there. I didn't smell it, because it wasn't in there.

12 **PRESIDING COMMISSIONER BRYSON:** So when did you
13 first become aware there was pruno in the cell?

14 **INMATE MCCLORE:** After he started making it. I
15 think one day I came in, come in from the work -- I used
16 to work for PIA, on the hill -- and when I came in from
17 work I started smelling it then. I'd been in the cell
18 like, about a week, and I started working up on the
19 hill. When I got out of work, came in, then I smelled
20 that he was making it.

21 **PRESIDING COMMISSIONER BRYSON:** And you just didn't
22 say anything about it to anyone?

23 **INMATE MCCLORE:** No.

24 **PRESIDING COMMISSIONER BRYSON:** You didn't tell an
25 officer.

26 **INMATE MCCLORE:** No, I didn't. And I'm being honest
27 with you.

1 **PRESIDING COMMISSIONER BRYSON:** What would you do
2 today?

3 **INMATE MCCLORE:** Today, I know one thing for sure,
4 if I knew somebody was doing something wrong with the
5 cell and they making me moving in there, and I'm not
6 going in there. I'm going to deny to go in there. They
7 can write me up and take me to the hole, I'll refuse to
8 be involved in anything. I got so much enthusiasm of
9 trying to get out of prison, now for sure, that I'm not
10 ever going to get in trouble again, here or on the
11 street. And if I knew anything like that was going on,
12 I just refuse to go into the cell. Just take me to the
13 hole, anywheres you want to take me.

14 **PRESIDING COMMISSIONER BRYSON:** Let's talk about
15 your parole plans. You do have a letter of support in
16 as much as you have a letter of what appears to be an
17 employment offer. It's dated July 1st, 2006, from a
18 Mr. Michael L. Smith, of -- he's a CEO, it says, of
19 Miracle West Entertainment in San Bernardino. That's a
20 job offer --

21 **INMATE MCCLORE:** Yes.

22 **PRESIDING COMMISSIONER BRYSON:** -- you're
23 considering? How do you know Mr. Smith?

24 **INMATE MCCLORE:** I met him in the visiting room, got
25 to know him.

26 **PRESIDING COMMISSIONER BRYSON:** So he was here
27 visiting with a prisoner?

1 **INMATE MCCLORE:** Right, his brother, yeah.

2 **PRESIDING COMMISSIONER BRYSON:** I see.

3 **INMATE MCCLORE:** Uh-huh.

4 **PRESIDING COMMISSIONER BRYSON:** Okay. What would be
5 your role in the Miracle West Entertainment?

6 **INMATE MCCLORE:** Whatever he decides for me to do,
7 at the, at the place and time -- I don't have any
8 glasses on, I can't really read this, but

9 **PRESIDING COMMISSIONER BRYSON:** I'm sorry, I didn't
10 know you wore glasses, sir. It didn't indicate that on
11 the ADA form.

12 **INMATE MCCLORE:** I got my glasses; I just don't have
13 them on right now. I can put them on.

14 **PRESIDING COMMISSIONER BRYSON:** Well, it's up to you
15 if you want to see the document.

16 **INMATE MCCLORE:** Well, basically that's what he
17 saying, you know, what I be doing.

18 **PRESIDING COMMISSIONER BRYSON:** Ah, let's review
19 that. It says:

20 "I'm the CEO of Miracle West. It's a quality
21 entertainment company that provides musical
22 services as well as film and clothing divisions
23 on a global level. I have been personally
24 affiliated on a personal level for 20 plus
25 years now. But life has not always been a walk
26 in the park for me. I grew up with the same
27 thing in common with a lot of young black men,

1 and that's the plague of the
2 no-father-in-the-home syndrome. I was on a
3 collision course until someone reached out and
4 helped and showed me the right way to live. So
5 now at the age of 42 I'm in a position for
6 opportunity to reach out and make a difference
7 in someone's life. Mr. W. Lynn McClore has a
8 golden opportunity to come and be able to be
9 productive in the community and society as an
10 employee at Miracle West Entertainment.
11 Mr. McClore would be associate producer, where
12 he would work hand and hand with myself and the
13 producers on all projects, which includes the
14 budgeting and marketing ventures. I have full
15 confidence in Mr. McClore to work with me and
16 my colleagues at Miracle West Entertainment."

17 So, what is your experience that would lead you to
18 be valuable to this gentlemen at Miracle West? What
19 would be -- what would be your job? That's what I'm
20 looking for, what would you be doing?

21 **INMATE MCCLORE:** Well, let me say this: I was so --
22 I'm not from California. So to look -- the chance I
23 have to talk to people and get to know people and try to
24 put a parole plan together is in the visiting room,
25 because I'm not from California. So when he got to know
26 me and told me, well, I say (inaudible) with the Parole
27 Board. And he offered me a job. I was just so glad

1 just to get a job offer, I didn't really go into a lot
2 of details about it. I was just, "oh, okay," and I
3 agree with him. So he just send me a letter, and this
4 all he sent me. So basically that's all I can say.

5 **PRESIDING COMMISSIONER BRYSON:** So you know nothing
6 about this Miracle West --

7 **INMATE MCCLORE:** I wouldn't care if he had me
8 cleaning toilets at that place, I would do that.

9 **PRESIDING COMMISSIONER BRYSON:** My care, sir, if he
10 was doing an illegal business, that's why --

11 **INMATE MCCLORE:** Oh, absolutely. Oh, yeah, I would
12 care, but, I really don't think that it illegal
13 business, but whatever he would me doing there, I would
14 do it, because I just want to

15 **PRESIDING COMMISSIONER BRYSON:** Okay. How about the
16 residence plans, where would you live?

17 **INMATE MCCLORE:** With my cousin.

18 **PRESIDING COMMISSIONER BRYSON:** Where is that?

19 **INMATE MCCLORE:** In San Fernando Valley in Glendale,
20 California.

21 **PRESIDING COMMISSIONER BRYSON:** And how far away
22 would that be --

23 **INMATE MCCLORE:** (Inaudible.)

24 **PRESIDING COMMISSIONER BRYSON:** -- from the
25 San Bernardino company?

26 **INMATE MCCLORE:** I think it's --

27 **PRESIDING COMMISSIONER BRYSON:** I'm not familiar

1 with the greater (inaudible), so

2 INMATE MCCLORE: Okay.

3 ATTORNEY TARDIFF: Where did she live?

4 INMATE MCCLORE: This is in Glendale.

5 ATTORNEY TARDIFF: In Sherman Oaks?

6 INMATE MCCLORE: Yeah. Glendale, San Fernando
7 Valley.

8 ATTORNEY TARDIFF: It's a long, long ways.

9 INMATE MCCLORE: Yeah.

10 ATTORNEY TARDIFF: Very long.

11 PRESIDING COMMISSIONER BRYSON: So basically this
12 would (inaudible) work for both, that's ... and who
13 would that be with, now, I'm sorry, for your residence?

14 INMATE MCCLORE: (Inaudible.)

15 PRESIDING COMMISSIONER BRYSON: Do you have a copy
16 of that letter somewhere?

17 ATTORNEY TARDIFF: Here's a letter from '04.

18 PRESIDING COMMISSIONER BRYSON: From '04? This is
19 2007.

20 ATTORNEY TARDIFF: The mail's been held up here.
21 Apparently, there's a current letter, it's been mailed,
22 but it's not been given to the inmate, my client, yet.

23 PRESIDING COMMISSIONER BRYSON: I see. Okay. So
24 basically, this is three years, well, basically two
25 years old. So the issue here is people change their
26 mind, they move, this kind of thing. So this is a
27 cousin you're stating, and you'd be able to move in with

1 your cousin --

2 INMATE MCCLORE: Right.

3 PRESIDING COMMISSIONER BRYSON: -- you're saying?

4 Well, it won't work with your, with your employment,
5 apparently not. Those won't work at this point,
6 but

7 ATTORNEY TARDIFF: And there's an '05 letter, here.
8 Again, another letter apparently he was sent --

9 INMATE MCCLORE: Right.

10 ATTORNEY TARDIFF: -- and --

11 INMATE MCCLORE: This is a job in Los Angeles for
12 that Hearing.

13 PRESIDING COMMISSIONER BRYSON: This is from the
14 president of what company? (Inaudible) Design --

15 INMATE MCCLORE: Yeah, yes. Yeah.

16 PRESIDING COMMISSIONER BRYSON: -- Products? All
17 right. And who is this person?

18 INMATE MCCLORE: It's a friend of mine; I met him in
19 the visiting room as well.

20 ATTORNEY TARDIFF: Let me explain the visiting -- he
21 works, he does the visiting room. That's his job.

22 PRESIDING COMMISSIONER BRYSON: Well, that's very
23 interesting. He does, you do photography in the
24 visiting --

25 INMATE MCCLORE: Yes.

26 PRESIDING COMMISSIONER BRYSON: -- room? What, what
27 is that about?

1 **ATTORNEY TARDIFF:** They take pictures of the
2 inmates --

3 **INMATE MCCLORE:** Inmates.

4 **ATTORNEY TARDIFF:** -- inmates with their family.

5 **PRESIDING COMMISSIONER BRYSON:** I see.

6 **ATTORNEY TARDIFF:** And I've seen him down there when
7 I've come to interview.

8 **PRESIDING COMMISSIONER BRYSON:** That's, that's
9 basically what you're doing for work now?

10 **INMATE MCCLORE:** Right, yes.

11 **PRESIDING COMMISSIONER BRYSON:** I see. Do you have
12 a pay number on that?

13 **INMATE MCCLORE:** Yes.

14 **DEPUTY COMMISSIONER THOMPSON:** What do you make?

15 **INMATE MCCLORE:** I think \$20, \$36, something like
16 that.

17 **PRESIDING COMMISSIONER BRYSON:** A month, a week?

18 **INMATE MCCLORE:** Yeah, a month.

19 **PRESIDING COMMISSIONER BRYSON:** Uh-huh. All right.
20 So you struck up relationships at --

21 **INMATE MCCLORE:** Right.

22 **PRESIDING COMMISSIONER BRYSON:** -- with these people
23 that way?

24 **INMATE MCCLORE:** Right.

25 **PRESIDING COMMISSIONER BRYSON:** I see. This is a
26 January 20th, 2005, letter. So it is, it is also dated.
27 Talking about giving you a second chance. Send a

1 powerful message. "I've been in the business for 20
2 years." And this company does appear to be in business
3 in Inglewood, California. What would you do for this
4 company?

5 **INMATE MCCLORE:** Excuse me?

6 **PRESIDING COMMISSIONER BRYSON:** What would you do
7 for this company?

8 **INMATE MCCLORE:** I think (inaudible) a salesman
9 position.

10 **PRESIDING COMMISSIONER BRYSON:** Selling what?

11 **INMATE MCCLORE:** Ah, health and beauty supplies.

12 **PRESIDING COMMISSIONER BRYSON:** Okay. Talks about
13 \$15 an hour job.

14 **INMATE MCCLORE:** Right.

15 **PRESIDING COMMISSIONER BRYSON:** All right. Counsel,
16 do you have anything further on the parole plans?

17 **ATTORNEY TARDIFF:** No.

18 **PRESIDING COMMISSIONER BRYSON:** We sent out 3042
19 notices; those notices go to agencies having a direct
20 interest in your case. We have a representative of the
21 Los Angeles County District Attorney's Office present
22 who will be given an opportunity to make a statement
23 regarding suitability prior to the conclusion of this
24 Hearing. First, Commissioner Thompson, do you have any
25 questions of this inmate at this time?

26 **DEPUTY COMMISSIONER THOMPSON:** Not at this time.

27 **PRESIDING COMMISSIONER BRYSON:** All right. Does the

1 District Attorney have questions of this inmate?

2 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I do have one
3 question. I thought I had two, and I don't see the
4 second one, but, I would like to, first of all refer to
5 the transcript as a foundation for the questions I'm
6 about to ask.

7 **ATTORNEY TARDIFF:** Which transcript?

8 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** The one that we
9 were referring to previously that comes right after the
10 appellate decision.

11 **ATTORNEY TARDIFF:** Okay.

12 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** And I would refer
13 to page -- the bottom of page 166, where the question
14 was: "Do you recall if it was the driver or the
15 passenger who asked you the question about being on your
16 period?" And answer: The victim says, "I can. The
17 passenger." And then I would refer the Panel to
18 page 174. Let's see. Actually, I think it Okay.
19 Line 10, "May the record reflect the witness has
20 identified defendant McClore," and the Court says "so
21 identified." And then by Ms. Rosenbach (phonetic), "Was
22 this individual the driver or the passenger?" And the
23 answer was "passenger." So this identifies the
24 passenger as the person who asked that question, and the
25 passenger as being the inmate. So my question that I
26 would like to ask the Panel to ask him is why did he ask
27 the victim during this crime if she was on her period?

1 **INMATE MCCLORE:** Because I saw a tampon in her
2 purse. That's why.

3 **PRESIDING COMMISSIONER BRYSON:** What difference
4 would it make?

5 **INMATE MCCLORE:** Absolutely. That's why I, I don't
6 understand she even asked me this.

7 **PRESIDING COMMISSIONER BRYSON:** No, I'm asking why
8 you would ask her that question. That's a very personal
9 question to ask a woman.

10 **INMATE MCCLORE:** I agree with that. Like, again, I
11 was immature at the time. And that's what I did -- I'm
12 sorry, because I knew you hate my character --

13 **PRESIDING COMMISSIONER BRYSON:** No, sir --

14 **INMATE MCCLORE:** -- and, but it --

15 **PRESIDING COMMISSIONER BRYSON:** -- sir, this is,
16 this is not about hating you; we don't hate you at all.

17 **INMATE MCCLORE:** Well, it seems though --

18 **PRESIDING COMMISSIONER BRYSON:** We're here, we're
19 here only to see that you understand what went on, and
20 what went on -- what do you think went on with, in this
21 woman's mind --

22 **INMATE MCCLORE:** Well, you see --

23 **PRESIDING COMMISSIONER BRYSON:** -- when you asked
24 her if she was having her period?

25 **INMATE MCCLORE:** She probably thought that she was
26 going to be raped or -- I know this, but that's why I'm
27 trying to explain to you. Now, that I know. Back then

1 I was a different person, I'm a much better individual
2 now. Yes, I know she was mentally trauma, and I
3 understand the impact that I did to her and her family.
4 And to my family for me being in prison. I understand
5 all of this --

6 **PRESIDING COMMISSIONER BRYSON:** Sir, why did you ask
7 her --

8 **INMATE MCCLORE:** -- and I don't have no problems.

9 **PRESIDING COMMISSIONER BRYSON:** -- why did you ask
10 her that question?

11 **INMATE MCCLORE:** Because, what I seen inside her
12 purse. If I remember, that's what the reason why I
13 believe I asked her that. I don't know. It's been a
14 long time. I don't know why I asked her. I'm just
15 being honest. I don't, I don't -- to lie, I don't to
16 try to deceive you. I just looked in the purse and I
17 asked her that. It been so long, I don't know why. I
18 did 20-something years. I don't know why.

19 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I, I would like
20 to ask one additional question to ask the Panel to ask.
21 He has recently completed an Anger Management course.
22 If he could give us a brief idea of what he learned
23 about that he thinks, you know, what's important to him.

24 **INMATE MCCLORE:** All of it is important. I really
25 enjoyed the class. It's two, it's four different groups
26 of anger. One is the past anger and the present. The
27 next one is anger and aggression. The next one is how

1 anger is caused. And the next one, number four, is
2 managing anger. And ideally for me, when it come to a
3 situation right now, I know how to react without letting
4 emotion getting involved; I know how to act in a calm
5 relaxed and make the right decision without being
6 aggressive or being angry in a violent manner.

7 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** May I ask a
8 follow-up. I'd like you to inquire does he feel, did he
9 recognize her -- am I wrong? -- that in his response to
10 the, my question and the Panel's question regarding what
11 the victim said, he appeared to be angry. Am I wrong?

12 **PRESIDING COMMISSIONER BRYSON:** Do you understand
13 that, sir? Your voice became elevated, you became
14 agitated, your arms were gesticulating, you showed a lot
15 of agitation just a few moments ago in this Hearing
16 room. And, so, do you understand that, that you're
17 portraying, your image that you're portraying today is
18 that you're, you're worked up, you're agitated, and

19 **INMATE MCCLORE:** But I'm not angry. I might be a
20 little frustrated, but I'm really not angry. It's just
21 that when I came to this Hearing I was coming in this
22 Hearing and I thought I was going to pick up on a lot of
23 things that was said and done at the last Hearing. And
24 my mind was set from, from the Hearing previously, this
25 Hearing was going to be based off of, off of that
26 Hearing. That's how I thought these Hearings supposed
27 to go. From the last decision it was going to be based

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1 off of that. And when I come -- and my mind-set, from
2 what Fisher told me, from what Commissioner McBean told
3 me, and I was -- my mind-set to show what, with the
4 advice that she gave me, I went and did that. I went
5 and got more insight of the crime, came here willing to
6 talk about it, I'm willing to talk about Anger
7 Management and how it apply to my life back then and how
8 it apply to my life now. But I see that this Hearing is
9 going just the opposite, so I wasn't prepared to talk
10 about what I was thinking when I saw the thing in the
11 purse or a lot of things that I just wasn't prepared
12 for. I wasn't prepared to talk about a lot of things
13 because all these things were brought up in the previous
14 Hearing. I came here

15 [Whereupon, pause while a prison horn is blowing.]

16 **INMATE MCCLORE:** Okay. I came up in here to follow,
17 to the Board Panel know that I followed all the advice
18 and instructions from the last previous Hearing that was
19 given to me in order for me to get out of prison. And
20 that was Ms. Fisher told me in the decision, asking me
21 to do those things, come back, show more insight, talk
22 about anger -- go take some Anger Management, bring some
23 chronos in. And I did all of that. When I come here
24 today, it's a total different Hearing that didn't have
25 anything to do with the previous Hearing. That's why I
26 feel as though, the way I feel. But I'm not angry, I
27 just don't understand

1 **ATTORNEY TARDIFF:** Well, perhaps some of this is my
2 fault. I probably should have probably, I don't,
3 clearly, I, I guess I just assumed he understood that
4 this was just like a brand new Hearing and that each
5 Panel assesses on their own whether or not someone's
6 suitable, and they don't just take off from the last
7 Hearing. It's a full Hearing from start to finish, and
8 it's subject to being, to being questioned about
9 anything that had, that the Panel feels would reflect on
10 whether or not someone is suitable. Apparently,
11 Mr. McClore was under the understanding that this
12 Hearing was just going to determine whether or not he
13 had done what the prior Panel had asked him to do.

14 **PRESIDING COMMISSIONER BRYSON:** And I appreciate
15 your taking responsibility, counsel. However, that
16 stretches the belief, too, because this is your ninth
17 Subsequent Hearing. So, frankly, sir, I'm sure you've
18 gone over -- in fact, looking at the transcript, you've
19 got a lot, covered a lot of issues repetitively. It
20 can't be news to you that each Hearing is a de novo
21 Hearing. That is fancy verbiage for each Hearing is
22 taking into account of its own. We do look at prior
23 transcripts, of course, they're part of your Board
24 history, okay. But that also gives you the chance to
25 present as you will. And, frankly, you're presenting
26 with the same flippant attitude, actually, that
27 Commissioner Fisher talked about in the last Hearing.

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1 If you want to go by the last Hearing and refer to it,
2 which you sort of opened the door -- in fact, here it
3 is. You see, she says, "You seem kind of flippant." It
4 says "flip" in the transcript, but I'm sure the word is
5 "flippant," and the transcriber just didn't know what
6 was said. I'm talking about your offenses. And she
7 said, "You know, it may just be because you talked about
8 them a lot." It's hard to say, but it doesn't feel to
9 us that you have a lot of insight as to why you were
10 doing the things you were doing, or how your crimes
11 affected other people. That's what's really troubling
12 to us. And then she says, "What troubled both of us was
13 the fact that at the 1996, 1998, 1999, and 2002, and
14 2003 Hearings, at the end of the Hearings, all the
15 Commissioners made comments about your reactions." And
16 she cautions you, "Don't do it again. Because if you do
17 it again, the next person reading the transcript is
18 going to bring it up again." So, au contraire,
19 monsieur, this, this is, should -- I'm sure it's very
20 clear to you. I can't believe that you don't know that
21 we look at the entire Panel plea of your record and we
22 take everyone into account all over again. You know
23 that.

24 **INMATE MCCLORE:** This is what I'm saying again. My
25 understanding is something like this: I went by the
26 advice that she gave me. I'm not angry at this Hearing.
27 I'm not throwing my hands up in no anger, I'm just

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1 confused about what -- the instructions that she give me
2 and advice that I can't, that I got last time at the
3 last Hearing, and it's, it's nowhere today being talked
4 about this. It's talked about everything else besides
5 what I came in here from the advice that I got. So I'm
6 kind of like

7 **PRESIDING COMMISSIONER BRYSON:** The advice you got,
8 sir, was to, the Panel --

9 **INMATE MCCLORE:** To go more into the insight of the
10 crime --

11 **PRESIDING COMMISSIONER BRYSON:** -- (inaudible) --

12 **INMATE MCCLORE:** -- for my behavior --

13 **PRESIDING COMMISSIONER BRYSON:** -- sir --

14 **INMATE MCCLORE:** -- of why I committed the crime.

15 **PRESIDING COMMISSIONER BRYSON:** All you, all you've
16 been saying, is I take more, full responsibility, I take
17 full responsibility. That's not insight. Okay. You've
18 got issues with women in many different ways. You got
19 criminal acts against women, where in fact, the most
20 heinous of them, you said, well, you know, actually you
21 were trying to console her. And then you have, you have
22 breakups in relationships. You have issues with the --
23 it, even today does not appear that you've dealt with
24 it. That's the concern here. Perhaps you need therapy
25 about it. I don't know. But that's, that's something
26 to consider. You should be concerned about that, about
27 how you reacted in women's presence. Because, sir, it's

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1 not believable that, "well, it's just women that I was
2 around, I wasn't really around men, so, I really was
3 just interacting with women." You had a, you had a
4 crime partner. All right? You, you knew what was going
5 down when he's, gets in the car and makes demands on
6 her. You're watching the whole thing go down. And
7 right there, you were standing right there. So it's not
8 like you were an innocent participant here that didn't
9 really know what was happening. My gosh, you open a
10 woman's purse, you see tampons in there. Tampons, we
11 all know what tampons are for, I'm sure guys know what
12 tampons are for.

13 **INMATE MCCLORE:** Absolutely.

14 **PRESIDING COMMISSIONER BRYSON:** Right. So, why
15 would you turn to a woman and say, "Are you on your
16 period?" Well, what do you think, the woman's going to
17 think is going to happen to her if you're asking those
18 questions. You had to know that.

19 **INMATE MCCLORE:** I said at that particular time, you
20 right, you did. And I told you, I'm a changed person.
21 And I'm not disputing what you saying. I agree with all
22 of that. Back then I was a, I, I'm ashamed of my
23 (inaudible) how I used to be. But I come to this
24 Hearing today, and I was trying, you know, show insight,
25 more in-, more insight into the crime of my behavior.
26 And I did have a pattern of -- it was on women. I went
27 and read the transcript, and I come to acknowledge that.

1 And acknowledged it more insight of the crime that I had
2 so little of faith in any own ability that I starred
3 living off the earnings off the people. And a lot of
4 them was female. You absolutely right; I acknowledge
5 that. And it was wrong to do. Everything I did was
6 wrong. But I, I have changed. I went to Anger
7 Management, and I wouldn't act the same way that I used
8 to do with my Anger Management no more, I know how to
9 control it. I'm not mad, I'm just confused that, like I
10 say, not understanding what was said at the last
11 Hearing, and this Hearing is totally different, and it's
12 just -- talking about things that I just don't remember
13 no more.

14 **PRESIDING COMMISSIONER BRYSON:** Okay. And do you
15 have any more questions?

16 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** No, I don't,
17 thank you.

18 **PRESIDING COMMISSIONER BRYSON:** All right. Do you
19 have any questions, counselor?

20 **ATTORNEY TARDIFF:** I just, I want -- I'm not clear
21 about this 115 in '94, the assault and battery causing
22 great bodily injury. Now, was that what you were found
23 guilty of ultimately?

24 **INMATE MCCLORE:** What?

25 **ATTORNEY TARDIFF:** The assault and battery causing
26 great bodily injury. Or what was the, or was, were you
27 just found guilty of battery?

1 **INMATE MCCLORE:** Of battery. The 115 was reduced
2 from A-1 offense to assault with great bodily injury
3 down to a --

4 **ATTORNEY TARDIFF:** Battery only.

5 **INMATE MCCLORE:** Yes.

6 **ATTORNEY TARDIFF:** Okay. So when it was put on the
7 record that you had a 115 for assault and battery
8 causing great bodily injury, that's not true.

9 **INMATE MCCLORE:** Right.

10 **ATTORNEY TARDIFF:** And was reduced to a battery,
11 because actually the great bodily injury was to
12 Mr. McClore when he was shot by a correctional officer.

13 **PRESIDING COMMISSIONER BRYSON:** And that's when he
14 was fighting; is that correct?

15 **ATTORNEY TARDIFF:** Right, with another inmate. So
16 they reduced it to a battery. So he doesn't have great
17 bodily injury. Lesser offense, I guess, the way to put
18 it. And how long have you had your job in Visiting?

19 **INMATE MCCLORE:** I'd say six years.

20 **ATTORNEY TARDIFF:** So, in terms of, I think an issue
21 might be that your ability, you know, apparently you
22 resorted to criminal activity as a means of making money
23 because you stated you weren't real responsible back
24 then, didn't keep a job.

25 **INMATE MCCLORE:** I was in a lot of stress -- and for
26 the money, that's what I did it for.

27 **ATTORNEY TARDIFF:** Okay. So, today, though, if you

1 were under a lot of stress and you needed money, what
2 would you do?

3 **INMATE MCCLORE:** I would go get me a job and go seek
4 some therapy for my stress and find me a job. And since
5 I've been in prison, I have worked for six -- I have
6 worked 20 years since I've been in prison, and I truly
7 have the experience, now, how to feel to be independent.
8 And I will get out and get me a job and work and be
9 independent so I won't have to live off the earnings of
10 other people.

11 **ATTORNEY TARDIFF:** So you've learned the value of
12 working --

13 **INMATE MCCLORE:** Absolutely.

14 **ATTORNEY TARDIFF:** -- and now know how to keep a
15 job --

16 **INMATE MCCLORE:** Yes.

17 **ATTORNEY TARDIFF:** -- and what to do when --

18 **INMATE MCCLORE:** Yes.

19 **ATTORNEY TARDIFF:** -- problems arise.

20 **INMATE MCCLORE:** Yes.

21 **ATTORNEY TARDIFF:** Okay. But at the time of the
22 crime you didn't know these things, correct?

23 **INMATE MCCLORE:** I didn't know these things, and I
24 was lazy, and I just didn't, I just didn't care at the
25 time. But I, I'd like to say this, because I see what
26 this, where this Hearing is going. I'm just stating
27 because how I feel. At the time of this crime, the way

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1 I really feel, if the world ever came together and built
2 a statute of a fool, they could have name it after me.
3 But as of today, they can tear it down, because I have
4 changed. I'm more spiritually grounded, from my
5 education, my vocation, my vocation from my self-help
6 that I received in my incarceration, incarceration, I'm a
7 better person, because I --

8 **ATTORNEY TARDIFF:** Incarceration.

9 **INMATE MCCLORE:** Yeah, incarceration.

10 **ATTORNEY TARDIFF:** Okay. When you get a chance
11 (inaudible) at the closing. I just want to establish
12 today you do have a longstanding history of working.

13 **INMATE MCCLORE:** Right.

14 **ATTORNEY TARDIFF:** Okay. And you understand the
15 value of this. I have nothing further on questions.

16 **PRESIDING COMMISSIONER BRYSON:** All right, then I'd
17 like to invite the District Attorney to make a closing
18 statement.

19 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I, I, I feel the
20 inmate's frustration just as a human being, but, I, and
21 I -- none of us really want to keep people in prison
22 when they shouldn't be here, but, but I also just, I
23 feel from the still anger in, it, it's kind of
24 frightening to feel that he still may have that
25 underneath. And I know that he's completed Anger
26 Management; I think as, as Commissioner Bryson said,
27 that it might -- you know, maybe therapy might -- I

1 don't know if that's available here, but anyway,
2 something else to (inaudible) so that maybe he'll
3 understand. He doesn't seem to understand what we're
4 reacting to at this point. And for the reasons that I
5 will explain, I, it is the position of the District
6 Attorney that at this moment the inmate is still
7 unsuitable for parole. A large part of that is because
8 of the life crime, which we know will never change, but
9 it must be considered, and especially considering that
10 life crime in connection with other crimes that he has
11 committed. In this case he kidnapped and struck the
12 victim, stole her car. And it was the inmate also
13 identified as the person who ripped the jewelry from her
14 body, from her neck, and took her rings. They forced
15 her to go to two stores and buy clothes and shoes, as
16 has been explained, and then later dumped her off on the
17 side of the freeway or told her to get out the car
18 there. And we know that the inmate did ask her if she
19 was having her period, which I'm sure must have made her
20 feel, as he understands, that perhaps she was going to
21 be raped at that time. They also threatened to kill her
22 if she showed any fear and, or so forth, whatever that
23 meant, that they would then kill her. She stated in the
24 transcript when she got into the car, he told her -- and
25 I'm not sure who she was referring to at that point, but
26 they were both together -- not to try to get away,
27 because quote, "I have a gun and I'll use it." She said

1 she tried to get out and she was hit in the face, and
2 then she was pinned down. Let's see. And the inmate
3 has done what he was advised at the last Hearing, that
4 he needs to address his anger issues; he has completed
5 successfully, apparently, an Anger Management course.
6 It appears today, to me, in any event, that he has some
7 issues in that area. And I'm not sure what's available
8 for him, but again, I think there's still an issue
9 there. And as he has shown in prior Hearings,
10 repeatedly that he has shown anger and lack of
11 self-control in the past, which he -- I wouldn't
12 describe today as lack, lack of self-control, but his
13 frustration, and I think anger was apparent today. He
14 had an escalating prior criminal history, was on parole
15 at the time of the life crime, he was not working and
16 was in violation of his parole at the time of the crime.
17 In fact, he was, at the time he was arrested -- because
18 he was not reporting to his parole officer, was not
19 living at the address he gave the parole agent, and was
20 not employed. He's, he's described to us today of his
21 frustration at not being employed. He also failed to
22 participate in drug counseling, as was ordered by his
23 parole agent. He also, in his past history, as has been
24 mentioned, he had a history of victimizing women. He
25 was charged with assault with a deadly weapon and
26 pimping. He pled guilty to the assault with a deadly
27 weapon. And, as has also been mentioned, was also

1 charged with residential burglary of his girlfriend's
2 aunt's home. His parole was revoked for that offense.
3 When he was, for some reason, convicted of second
4 degree, even though it was a residential burglary. The
5 probation officer --

6 [Whereupon, the tape was turned over.]

7 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I was just
8 stating that the probation officer's report in the case
9 that involved the original charge of pimping and the
10 245, the probation officer said, "It would appear that
11 he forced a female into prostitution, threatening her
12 with physical violence if she failed to share her
13 proceeds and bring him at least \$300" -- I don't know
14 what period of time that \$300 was -- "and then
15 assaulting her with a weapon, which was a telephone."
16 It really is hard to imagine that, that he would have
17 pled assault to a deadly weapon if he really just tapped
18 her with a telephone. His failure while on parole
19 before is similar to his behavior at this time in the
20 sense that he was told -- well, no, let me strike that,
21 because he did in fact, he did in fact complete his
22 Anger Management. As, as has been mentioned, the inmate
23 has during his, his incarceration on this offense, four
24 115s, two in his prior prison term; two for pruno, which
25 is interesting when I understand his explanation, but --
26 as to one -- but I'm not sure about both of them. He
27 also, the parole plans, I think he has a problem with

1 the San Bernardino job and even the Inglewood and
2 Glendale. That's, that's probably a distant, a distance
3 of about 40, probably 30, 35 miles. But San Bernardino
4 would be from the Glendale area -- I've lived there most
5 of my life -- that would not be a physical location for
6 a residence versus being employed in terms of his parole
7 plans. For all of the reasons that I've mentioned, it
8 is the position of the District Attorney that at this
9 moment the inmate is still not suitable for parole and
10 would present a danger to the community.

11 **PRESIDING COMMISSIONER BRYSON:** Thank you. Counsel
12 I would like to give you the opportunity to make a
13 closing statement.

14 **ATTORNEY TARDIFF:** Thank you. His prison record, in
15 terms of the commitment offense, it's noted in the
16 probation officer's report, and it's page 4 of the
17 second part. These pages are -- you can see there's
18 like two different reports here.

19 **PRESIDING COMMISSIONER BRYSON:** (Inaudible.)

20 **ATTORNEY TARDIFF:** I guess the first one involves
21 the pimping and pandering one and this ADW, and then the
22 second one is the, this kidnapping. And on page 4, when
23 they interviewed the victim, it says, starting on
24 line 12, she states that the codefendant was the one who
25 was the most vicious towards her and the one making most
26 of the threats. She does not anyway excuse the
27 defendant's behavior, but states he did not appear to be

1 the original instigator. Also, going to the, that other
2 transcript behind the Appellate Court decision, I guess
3 that's the testimony taken at the trial? Or the
4 preliminary hearing.

5 **DEPUTY DISTRICT ATTORNEY GLIDDEN:** I'm not sure if
6 it's the trial or the preliminary hearing.

7 **ATTORNEY TARDIFF:** Starting on page 211, it says,
8 line 16: Question: "And then he opened the passenger,
9 passenger door and got in." "Correct." "Did he say
10 anything to you as he got into the car, the passenger,
11 that is?" -- and that would be Mr. McClore -- "No."
12 "Did the driver do most of the talking while he was
13 doing all this driving," et cetera, et cetera, "or was
14 there one person who did more talking than the other?"
15 "It was definitely the driver that was" -- and then that
16 was interrupted. "Did he seem like he was in charge?"
17 And then she answered, "Yes," the driver's, being the
18 driver was in charge. It goes on to page 212. "What
19 was the first thing you remember the passenger saying?"
20 "We weren't going to hurt you," on line 3 on page 212.
21 So ... and it does go on to say she was equally afraid
22 of both of them, but neither of them -- I just want to
23 put it on so it doesn't, you know -- but in either event
24 I think that clears up the fact that he in fact did not
25 threaten her with the gun or to kill her, and she in
26 fact saw him as not being the instigator, and that the
27 driver in fact seemed to be in charge. I submit this as

1 a mitigating factor in the commitment offense, that he
2 played the lesser role. And I think that might be part
3 of the problem at these Hearings is that this has been
4 made a big deal, and perhaps his focus has been on
5 clarifying all of this, perhaps misdirected direction or
6 something, if that's, that makes sense, instead of like,
7 he says that he clearly accepts responsibility for what
8 he did. But at the same time he keeps saying what all
9 these things are that, you know, he was not the
10 instigator and he was not primary culprit, so to speak,
11 but he -- so I think that that's part of the problem in
12 this matter. And also perhaps he's mistaken -- in the
13 Board report, his counselor also goes in, into this that
14 when Mr. McClore was seen by the BPT on 9/12/05, the
15 Board recommended that he remain disciplinary-free, get
16 self-help when available, and earn positive chronos. He
17 has done this. So I know he took that as meaning that
18 he's done what the Board asked. And that perhaps that's
19 where his misperception gets in the way, because he
20 pointed this out to me in our interview. So if he's not
21 given a date today, I think you should clearly should
22 tell him what may be -- I don't know, or I'll do you
23 it -- what's expected at these Hearings. In terms of
24 his psych evals, they have been very good going back to
25 '94, actually. The most current one, much of that has
26 already been read in the record; I'm not going to
27 regurgitate that again, but just to add -- and I brought

1 up the work thing, because that seems as if that would
2 be an issue in this matter, since he committed crimes to
3 support himself. On page 2 of the most current psych
4 eval, it states that he, he has an excellent work ethic,
5 which is frequently commented by staff. In terms of
6 the, his insight and judgment, it states, "His judgment
7 is sound and there is absolutely no evidence of a mood
8 or thought disorder." In discussing his commitment
9 offense and his maturity over his years of
10 incarceration, he was "insightful, thoughtful, and
11 clearly remorseful. There was no clinical indication of
12 adult antisocial behavior," but goes on to state, since
13 this was found in past reports, he will -- "left with no
14 other alternative other than to report that he has an
15 adult antisocial behavior by history. But I want to
16 make it perfectly clear that I found no evidence of this
17 diagnosis during this present evaluation." He received
18 a high GAF score of '90; his parole prognosis is
19 excellent; goes into some of his laudatory chronos. In
20 terms of the Impact Workshop, the instructor stated,
21 quote, "Inmate McClore is to be commended for his
22 participation and willingness to gain insight and
23 empathy for the victim of crime," end quote. "He takes
24 full responsibility for his behavior. At no time did he
25 minimize his responsibility or the impact of his
26 behavior on the victim." It concludes that "this inmate
27 has demonstrated his ability to reduce his potential

1 threat of violence in the institution, and if released
2 to the community," as has already been stated, "no more
3 threat of violence than the average citizen." The next
4 eval he had before that was '99; that one also gave him
5 a high GAF score of '84. "His prognosis for community
6 living, should he be paroled, is excellent. He has
7 involved himself with many activities in the previous
8 years that would ensure knowledge that he did not
9 previously possess. He has now taken time to put forth
10 the effort to learn. When asked questions about his
11 version of the offense, he, the inmate states he
12 believes that not only is he responsible for his crime,
13 but he is completely responsible due to the fact that he
14 believes at this point he could have talked his crime
15 partner out of committing this crime." It goes on to
16 state a couple more examples and concludes: "These
17 three examples of insight and judgment show that this
18 inmate has matured greatly in the 14 years he has been
19 incarcerated, and then at this time he would be an
20 excellent candidate for parole." And they noted no
21 significant risk factors or precursors to violence, and
22 I assume that would include substance abuse. "In '98,
23 his violence potential was estimated to be somewhat
24 below average, and was only in relationship to the
25 inmate population." And in '95, it notes that "his
26 insight and judgment appear to be improving over that of
27 his earlier years. If released, he should be able to

1 maintain his gains. If he is considered for parole, his
2 level of dangerousness should be less than for the
3 average inmate." And so, there's basically at this
4 point -- over 12 years of positive evaluations. If you
5 go to his prior incarceration history before, subsequent
6 to this Hearing, it shows a great deal of self-help; he
7 did a lot of self-help. I'd just like to note for the
8 record, obviously he's going to have to work. The
9 chronos are excellent in that regard. In terms of his
10 disciplinaries, the last time, if you want the battery,
11 force or violence, it's been over 12 years ago -- I
12 don't think that that should any longer be used as a
13 factor of unsuitability -- and it's been ten years since
14 a nonviolent 115 is issued in '97. He has completed
15 vocational Mill and Cabinet, obtained his GED; he's
16 upgraded himself that way. In terms of parole plans, he
17 does have support out there, with the letters that were
18 read into the record. And with that, I will submit.
19 Thank you.

20 **PRESIDING COMMISSIONER BRYSON:** Thank you. And now,
21 sir, we want to give you an opportunity to address this
22 Panel regarding your suitability for parole.

23 **INMATE MCCLORE:** I just know I'm suitable for
24 parole. I have changed. And through my education and
25 vocation and the self-help that I've received since I've
26 been in prison, is a tool now that I can go back and
27 live a successful life without being any trouble. And

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1 know this: I do have insight into the crime that I,
2 that I brought serious mental trauma to the victim, to
3 all of these crimes. And I've betrayed the people that
4 cared for me and trusted in me. And I want to, I wish I
5 could apologize to them and their families. I am ready
6 to go home. I have changed. And I do anything to go
7 home. I have high enthusiasm in getting out here and
8 doing the right thing. And I will. And if get denied
9 again, I just, I don't know what to do, I just try to do
10 better. But I'm not really mad; I'm just not
11 understanding how the first Hearing went, to what they
12 say in the first Hearing and -- to me -- it just seem it
13 wasn't considered. I know it was looked at, but looking
14 at something and considering is two different things to
15 me. I'm not the smartest, but I ain't the dumbest
16 person in the world. I know what I did was wrong and I
17 never do it again. Never do it again. Because I know
18 that it was wrong, and I admit myself, I would never
19 want to be a victim of a crime. So I know that. To all
20 these people, I'm sorry, and it never happen again. And
21 the reason I haven't had a chance to prove myself around
22 women because I don't have no lady right now. I'm not
23 around a bunch of women that I can prove myself. That's
24 why I'm, I can't say a lot things what I do when I'm
25 around a female. I don't need no therapy for that. If
26 I was on the street around people -- women -- I know I
27 do better because I be changed. I've got my Anger

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1 Management together. Obviously, I can control my anger.
2 I've been working in prison since I've been in prison.
3 I understand what it feels to be independent. I don't
4 have to live off the earnings of other people. I've got
5 pride now, I've got confidence, I've got the ability to
6 go do the right thing. And I wish I could go home.

7 **PRESIDING COMMISSIONER BRYSON:** Thank you for your
8 remarks. The time now is 5:00 o'clock. (Inaudible.)

9 **R E C E S S**

10 **---o0o---**

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CALIFORNIA BOARD OF PAROLE HEARINGS

D E C I S I O N

DEPUTY COMMISSIONER THOMPSON: You appear to be on the record.

PRESIDING COMMISSIONER BRYSON: Thank you. We are reconvened in the matter of Wilbur McClore. The time now is 5:35. Sir, the Panel reviewed all information received from the public and relied on the following circumstances in concluding that you are not suitable for parole and that you would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. And I'll explain why. This offense was carried out in an especially cruel and callous manner in that at approximately 1:15 in the afternoon on November 26, 1985, while exiting her vehicle at Wendy's drive-in restaurants, Sepulveda Boulevard in Los Angeles, the victim, Krispi Boucher, was physically forced back into her vehicle by codefendant Murphy, who then struck her in the face, demanding money. The victim was particularly vulnerable in that she was unarmed, unable to defend herself, and she handed over her car keys, telling Murphy her purse was in the trunk. Threatening her life, stating he had a gun, Murphy removed the purse from the trunk. The victim saw the inmate standing at the passenger door watching her. This offense was carried out in a

1 dispassionate manner. Both offenders entered the
2 vehicle, forcing the victim into the backseat, drove to
3 a shopping mall in San Fernando where they forced the
4 victim to purchase clothing and shoes for them, and then
5 back into the car and drove along the freeway. After
6 stealing the victim's jewelry, the inmate and Murphy,
7 your crime partner, pushed the victim out of the vehicle
8 on the side of the road and drove away. Sir, you have
9 failed society's previous attempts to correct your
10 criminality. This is your second prison term. You have
11 in your past violence, assaults, and prior criminality
12 showing an escalating pattern of criminal conduct. In
13 fact, you were parole-violated. As to your
14 institutional behavior, you have had commendable
15 behavior. In terms of programming, you served as a
16 Porter, you're serving as a Photographer in visiting
17 with accommodations from your supervisor. You did
18 achieve your GED in prison. You have achieved two
19 vocational certifications, one in Mill and Cabinet, one
20 in Graphic Arts Design, and you have attended various
21 self-help and therapy groups, including Impact program,
22 you have concluded the Impact program, which included
23 Anger Management, the ROC program, and you have
24 laudatory chronos, which have been mentioned in the
25 record. You also have read self-help books in the past;
26 that was in 2002. As to self-help and therapy, you've
27 **WILBUR McCLORE C-50493 DECISION PAGE 2 1/4/07**

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1 participated in AA/NA from '96 to 2000, and to your
2 credit your criminal history does not show polysubstance
3 abuse. Two of the 115s show a relationship to alcohol
4 but they have been explained into the record as well.
5 During your, the -- your current prison term, you have
6 four 115s, the most recent in 1997, for failure to
7 participate. So, you have since then, showed positive
8 behavior in prison. You have basically been
9 discipline-free since 1997, which, for the last ten
10 years -- and in truth since '94. The psychological
11 report, dated October 7th, 2003, by Dr. S., period,
12 Sexton, S-E-X-T-O-N, basically supports your parole;
13 gives you very high Global Assessment Function of '90.
14 As to your parole plans: This Panel feels that they're
15 not realistic in terms of relating your residence plans
16 to your potential work plans. That is a weakness in
17 your plans. You did present evidence of residential
18 plans, and although they were dated by two years, you
19 did appear to have a job offer, but you could not really
20 say what the job would be. So they are, shall we say,
21 not substantial. It is important to improve those. As
22 to Penal Code 3042 responses, responses indicate
23 opposition to finding of parole suitability,
24 specifically by the District Attorney of Los Angeles
25 County. In a separate decision, the Hearing Panel finds
26 it is not reasonable to expect that parole be granted at
27 **WILBUR McCLORE C-50493 DECISION PAGE 3 1/4/07**

1 a Hearing during the following two years. And the
2 reasons for this are as follows: First of all the
3 offense was carried out cruelly and callously, in that
4 on November 26th of 1985, you apprehended, basically, an
5 innocent woman who was at her vehicle at Wendy's
6 drive-in restaurant in Los Angeles, forced her into her
7 car, and basically assisted in the, or were a full
8 participant in the kidnap and robbery of this victim.
9 She was particularly vulnerable, she was unarmed,
10 incapable of defending herself, she was slammed down on
11 the floorboard of the car, she was threatened. She had
12 every reason to believe she was about to be raped and/or
13 killed. She told your crime partner that her purse was
14 in the trunk; at one point she was ready to give away
15 everything, and, but you continued to keep her in the
16 car. And Murphy removed the purse from the trunk, both
17 of you forced her into the backseat, then you forced her
18 to purchase clothing and shoes at a mall, and then you
19 drove along the freeway, and after stealing her jewelry,
20 you forced her out of the vehicle, and drove away. This
21 offense was carried out, moreover, in a manner
22 demonstrating exceptionally callous disregard for human
23 suffering. The victim was in fear for her life
24 constantly. And you had a good opportunity to cease at
25 many points, but you continued. The motive for this
26 crime was very trivial. It was a robbery. Your

1 criminal history at this moment involved, or closely
2 contiguous to this crime, was another crime against a
3 woman, a Bonnie Bray, who you assaulted with a
4 telephone. Now that was discussed as well on the
5 record. Sir, we feel you're moving backwards here.
6 Because -- and apparently you need more time than just
7 one year to evolve understanding about this crime. You
8 basically do not understand the nature and gravity of
9 this commitment offense. And my colleague put it very
10 well: She said there's grave difference between
11 acknowledging a crime, admitting you did it -- "I did
12 it, I take responsibility" -- and having insight and
13 understanding about that crime. You are citing
14 mitigating circumstances all along the way. You say you
15 lost your job, you were angry, but then on the other
16 hand, actually, we come to find out that you basically
17 quit the job. You said, you told the woman, "we're not
18 going to hurt you." But that makes so little sense,
19 because if you weren't going to hurt her, if this was
20 really empathy for her, then why did you continue with
21 it? The implication here is "we're not going to hurt
22 you, we're just robbing and kidnapping you." All right,
23 so -- and part way through this Hearing, and this is
24 what, this was the definitive factor for this Panel,
25 basically, you twice, you had an kind of an outbreak
26 where you said, "I can see how this Hearing is going,
27 WILBUR McCLORE C-50493 DECISION PAGE 5 1/4/07

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1 you hate me." Sir, this Panel doesn't hate you. A good
2 day is a day we can give a grant. We don't come here so
3 that we can do this and then send people back into the
4 institution. That's not fun for us; this isn't fun
5 sitting here doing this. A really good day is a day
6 that we can grant, everybody's happy. You're
7 clearly -- when you go out and be, be crime-free and
8 have a good affect on society, that's what we're really
9 looking for. We want to see these programs work. We
10 also want to mention that in fact the 115 where, there
11 was a reduction in penalty -- and I think it's just
12 important to put that on the record, and without reading
13 the entire 115, would you like to address that --

14 **INMATE MCCLORE:** Well --

15 **PRESIDING COMMISSIONER BRYSON:** -- Commissioner
16 Thompson?

17 **DEPUTY COMMISSIONER THOMPSON:** -- it was originally
18 charged as assault and battery with great bodily injury.
19 It had an investigator, and you pled not guilty, the
20 ultimate decision by the review Panel or the Hearing
21 officer was that there was guilt, based on the
22 investigating (inaudible) and based on the statements of
23 witnesses and others. They reduced the penalty for
24 that, for battery, for 90 days; they did not amend the
25 charge. It is still charged in the record as assault
26 and battery with great bodily injury. Apparently you

27 **WILBUR McCLORE C-50493 DECISION PAGE 6 1/4/07**

1 and another inmate had been engaged in a verbal that
2 became physical confrontation, which created the
3 situation where everyone was ordered down and a shot was
4 fired. In fact two shots were fired and you were
5 injured thereby. But it was not reduced to a simple
6 battery. The material remains in the file to this date
7 on that 115. It is the original charge; the penalty is
8 found that of battery, but the charge was not amended.
9 Just is clarify that.

10 **PRESIDING COMMISSIONER BRYSON:** Sir, you have done a
11 lot of work, and you do -- you actually pointed it out
12 yourself that you have not been challenged in terms of,
13 of women in this prison because there are so few, that's
14 true. There are a few women officers and some
15 counselors, but the majority of the population is male.
16 And there aren't a lot of good programs,
17 unfortunately -- we were just opining about that --
18 there aren't a lot of good programs for men who have
19 issues with women that actually help you. But we're,
20 we're certainly saying that you probably need therapy,
21 as available, on that issue, because you're, you still,
22 you demonstrated what we call a chip on your shoulder or
23 hair-trigger, but you have some latent anger that has
24 manifested itself. You're confronted here by two
25 women -- guess what? -- and the D.A.'s a woman and your
26 counselor's a woman, so, I don't know how this worked
27 **WILBUR McCLORE C-50493 DECISION PAGE 7 1/4/07**

1 out. It could have worked out worse for you, but
2 basically, and our judgment, and I hope you understand
3 this, has nothing to do with that. What we're really
4 just concerned about is that you do work through some of
5 these issues, because, again, saying, yeah, I did, I
6 know, I say, I took, take full responsibility is not the
7 same as just actually really -- your understanding, what
8 was going on with you so that, so that truly you don't,
9 you can, so that you can have relationships with women
10 and not get upset and have that something terrible
11 happen again. That's basically where we're going with
12 this. So, we would certainly not be opposed if, if you
13 could be able to get some therapy. But we do
14 acknowledge it's very hard to get in here. We are
15 asking for a new psychological evaluation, and we have
16 specified that you should get some help and treatment in
17 this area, which basically is the best we can do. You
18 could also read, and again, you did that one year.

19 **INMATE MCCLORE:** Yes.

20 **PRESIDING COMMISSIONER BRYSON:** And that was worth
21 while, and you could read, attempt to get some books on
22 these issues and maybe ask the counselor for some help
23 in getting some titles, get some books on this -- and
24 see where we're coming from on this -- and then get
25 (inaudible) come in for therapy, just frankly discuss
26 it, and discuss really what your issues could have been

27 **WILBUR McCLORE C-50493 DECISION PAGE 8 1/4/07**

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1 at that time (inaudible) the time to do. It's not much
2 time to do it, really. It's two full years of your
3 life, but we feel you have a fair amount of work to do.
4 So do you have anything further?

5 **DEPUTY COMMISSIONER THOMPSON:** No. I wish him well,
6 and good luck.

7 **PRESIDING COMMISSIONER BRYSON:** Good luck, sir. And
8 that concludes this Hearing. The time is now 5:47.

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23 **PAROLE DENIED TWO YEARS**

24 **THIS DECISION WILL BE FINAL ON: MAY 04 2007**

25 **YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT**
26 **DATE, THE DECISION IS MODIFIED.**

27 **WILBUR McCLORE C-50493 DECISION PAGE 9 1/4/07**


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**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, Don Larson, a duly designated transcriber, VINE, MCKINNON & HALL, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 91, and which recording was duly recorded at CALIFORNIA TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of WILBUR McCLORE, CDC No. C-50493, on JANUARY 4, 2007, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated JANUARY 23, 2007, at Sacramento County, California.



Don Larson
Transcriber
VINE, MCKINNON & HALL

EXHIBIT “C”

CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER HARMON: We're on record.

PRESIDING COMMISSIONER MOORE: All right.

Thank you. Let the record show that all interested parties have returned to the room.

Wilbur McClore, CDC number C as in Charlie 50493. This Panel has reviewed all

information received from the public and relied on the following circumstances in concluding that the prisoner is not suitable for parole at this time, and Mr. McClore would pose an unreasonable risk of danger to society or a threat to public safety if released from prison at this time. Paramount reasoning would be the timing and the gravity of the committing offense. The offense was carried out in a cruel and vicious manner.

Mr. McClore, this would be another one-year denial, sir. This was the kidnapping of Kristy Anne Broacher, wherein the prisoner and his crime partner did kidnap the victim. She had come into a Wendy's restaurant. The prisoner's crime partner seemed to be the main instigator of this particular event. Shoved

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1 her back -- the victim back into the car. .
2 They ended up taking her to a mall, making her
3 buy clothing. She was (indiscernible) times
4 when the (indiscernible). She was then taken
5 and dropped off afterwards, as other items
6 were stolen from her; as well as her vehicle.
7 This was -- This (indiscernible) took on a
8 period of -- an extended period of time of a
9 couple of hours. She was threatened and
10 terrorized and by the prisoner's crime
11 partner. These conclusions are drawn from the
12 Statement of Facts, wherein the prisoner and
13 his crime partner kidnapped and robbed the
14 victim in this particular incident, Kristy
15 Broacher. Psychosocial report -- The prisoner
16 has an escalating pattern of criminal conduct,
17 a history of unstable tumultuous relationships
18 with others; dropping out of school, not
19 completing school. He failed to -- previous
20 grants of probation and parole and cannot be
21 counted upon to avoid such criminality. He's
22 failed to profit from society's previous
23 attempts to correct his criminality. Such
24 attempts included adult probation, a parole,
25 county jail time, prior prison term. The
26 prisoner has (indiscernible) history or prior
27 WILBUR MCCLORE C-50493 DECISION PAGE 2 10/23/03

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1 criminality, which includes petty theft,
2 burglary, assault with a deadly weapon, which
3 was the prisoner's second commitment offense,
4 which was a -- And that was also a parole
5 violation. Institutional behavior -- The
6 prisoner has not participated sufficiently --
7 participated in beneficial self-help therapy
8 programming at this time. During the course
9 of his incarceration, he has only gotten four
10 115's on this term. Psychosocial report was
11 adequate. Parole plans was some questions in
12 terms of verification on the residential plan,
13 although there was an offer made, there's no
14 verification, no address, and so forth. So
15 there's some question (indiscernible) although
16 the offer was made. There are some acceptable
17 offers in terms of employment as well. 3042
18 notices -- The Hearing Panel notes responses
19 to 3042 notices indicate opposition to a
20 finding of parole suitability. Specifically,
21 the District Attorney's Office of Los Angeles
22 County in opposition to a finding of
23 suitability, present today. The prisoner's
24 counselor, F.I. -- CCI F.I. Deguzman wrote the
25 prisoner would pose a low degree, which is
26 positive. Remarks -- The Panel makes the
27 WILBUR MCCLORE C-50493 DECISION PAGE 3 10/23/03

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1 following findings: The prisoner still needs
2 to continue to maintain the gains that he's
3 made over an extended period of time. He
4 should be commended. He's done some positive
5 things. He's on a positive track. He needs
6 to continue in the direction. He's in the
7 Impact Program, Anger Management. Had several
8 vocations or (indiscernible) mill and cabinet.
9 Accomplished a GED. However, these positive
10 aspects of his behavior don't outweigh the
11 factors of unsuitability at this time. And as
12 I said, it's another one-year denial,
13 Mr. McClore. Continue to remain disciplinary
14 free, per your recommendation, and to continue
15 to participate in self-help therapy
16 programming to better understand the causative
17 factors in terms of whatever may be available
18 to you. As well, the other issue is to -- the
19 concern, as I mentioned, for both of us in
20 regards to your parole plans; your residence,
21 your parole plans. You need to clean that up,
22 clarify that for us.

23 **INMATE MCCLORE:** I could have did it. I
24 have it. I just didn't bring it with me
25 because I didn't know this was going to be
26 brought up. But if that's all you want, I
27 **WILBUR MCCLORE C-50493 DECISION PAGE 4 10/23/03**

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1 could have got the address. I have no
2 problem. I could have mailed it to you. You
3 could call her, get the address. If I could
4 have brought it, if I knew this was going to
5 be a big issue; the address. But I think that
6 it's not because I get denied on the same
7 thing every time I come in here. Every time.
8 I don't know what else to do. No more to do.
9 I don't know. Maybe if I kill myself, I get
10 to parole in a box. If that's what you want,
11 I'll do it. Because I don't know what you
12 want. I don't understand no more. I don't
13 understand. What do you want me to do? What
14 more? I'm just asking.

15 **ATTORNEY FOX:** Read the transcript. Okay.

16 **INMATE MCCLORE:** I read the transcripts
17 every year. They say the same thing over and
18 over again. That's all I'm saying. I just
19 don't know what to do.

20 **DEPUTY COMMISSIONER HARMON:** Mr. McClore,
21 I can tell you myself that you're on the right
22 track.

23 **INMATE MCCLORE:** I heard that before from
24 you.

25 **DEPUTY COMMISSIONER HARMON:** Well you need
26 -- You may hear it again. You're on the right

27 **WILBUR MCCLORE** C-50493 DECISION PAGE 5 10/23/03

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1 track. The crime you committed was a
2 horrible, horrible crime.

3 **INMATE MCCLORE:** I agree. I agree.

4 **DEPUTY COMMISSIONER HARMON:** Your history
5 is horrible. We have a responsibility to
6 public safety as our first priority. And we
7 want to make sure that everything is in order
8 before we give you that date. We don't see
9 that you're ready at this time. You're not
10 the only person that's being denied. But I
11 can tell you that not everybody throws a
12 little fit in the hearing room, like you just
13 did.

14 **INMATE MCCLORE:** Because I don't know
15 what --

16 **DEPUTY COMMISSIONER HARMON:** So that's not
17 real impressive. It only supports my feeling
18 that you're not ready for parole. So speaking
19 for myself, you're on the right track. One of
20 the further things you need to do is you need
21 to get control of your emotions so that it
22 doesn't create a situation like that -- like
23 it just occurred. Okay. But I think you're
24 on the right track. But you've still got work
25 to do. It's a horrible crime. It's that
26 simple. It's real simple. Okay. But you are

27 **WILBUR MCCLORE C-50493 DECISION PAGE 6 10/23/03**

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1 a good candidate and you're getting better.
2 And you might have to put up with more
3 refusals. And you're going to have to deal
4 with it.

5 **INMATE MCCLORE:** Oh, I'm going to deal
6 with it. I just -- I just don't understand
7 why the same thing (indiscernible). Oh, I'm
8 going to deal with it. I understand I have to
9 go through it. But I don't know anything else
10 to do. That's what I'm saying. I understand
11 exactly what you're saying.

12 **DEPUTY COMMISSIONER HARMON:** Okay.

13 **INMATE MCCLORE:** Can I say this?

14 **DEPUTY COMMISSIONER HARMON:** Check with
15 the Commissioner here. I don't know if he was
16 done.

17 **PRESIDING COMMISSIONER MOORE:** Oh, I
18 wasn't. But I'm done now. Are you finished?

19 **DEPUTY COMMISSIONER HARMON:** I'm done.

20 **PRESIDING COMMISSIONER MOORE:** This
21 concludes the hearing. The time is 1500
22 hours. Have a good day, sir.

23 **INMATE MCCLORE:** Yes, Sir.

24 --oOo--

25 **PAROLE DENIED ONE YEAR**

26 **FINAL DATE OF DECISION** JAN 21 2004

27 **WILBUR MCCLORE C-50493 DECISION PAGE 7 10/23/03**

1 CALIFORNIA BAORD OF PRISON TERMS

2 D E C I S I O N

3 PRESIDING COMMISSIONER FISHER: All right. I
4 note for the record that everyone that was previously
5 in the room and identified themselves have returned to
6 the room. Mr. McClore, I'm going to cut to the chase
7 here. This is another one-year denial and I'm going to
8 be real specific with you as to why. The Panel
9 reviewed all the information received from the public
10 and relied on the following circumstances in
11 concluding the Mr. McClore is not yet suitable for
12 parole and would pose an unreasonable risk of danger
13 to society or a threat to public safety if released
14 from prison. This case was the kidnapping of Miss
15 Krista Boucher who was forced into her car and forced
16 to turn over money and to, in fact, actually shop for
17 her two kidnappers. Mr. McClore, we went back through
18 the transcripts of your prior hearings and there are
19 two major things that really came out at us. The first
20 one is the fact that you just seem kind of flipped
21 about talking about your offenses, you know, and it
22 may just be because you've talked about them a lot,
23 it's hard to say. But it doesn't feel to us that you
24 have a lot of insight as to why you were doing the
25 things you were doing or into how your crimes affected
26 other people. The other thing that really troubled
27 WILBUR MCCLORE C-50493 DECISION PAGE 1 9-12-05

1 both of us was the fact that in the '96, '98, '99, '02
2 and 2003 hearings, at the end of the hearings, all of
3 the Commissioners made comments about your reaction.
4 And that concerns us. Don't do it again, because if
5 you do it again, because if you do it here, I
6 guarantee you the next person reading the transcript
7 of this hearing is going to bring it up again. It
8 gives us pause. It gives us pause that in '96 you
9 walked out. In '98, the Commissioner referred to
10 having temper tantrums; in '99 you argued with the
11 Commissioner; in 2002 you argued with the
12 Commissioner; in 2003, Commissioner Harmon referred to
13 you throwing a fit. Now, you're chuckling, but here's
14 the thing, we don't see that kind of behavior and give
15 you a 115, but I have to tell you that, to any Panel,
16 is going to be a red flag. I'm going to suggest this
17 to you, I want you to, over the course of next year,
18 and we are working very hard to clear up the back log,
19 we haven't even come up with a way to do it, so
20 hopefully you'll be back here in year, I want you to
21 go through the transcripts of not just your commitment
22 offense, but the transcripts that we have in here, the
23 information about the assault with deadly weapon. I
24 want you to go through those, I want you to really go
25 through your Central File and come back in prepared to
26 talk about, other than, you fell in with bad company,
27 WILBUR MCCLORE C-50493 DECISION PAGE 2 9-12-05

to do
~~what have~~
~~the transcripts~~

1 or you went through a bad patch and talk about what
2 kind of insight you developed as to why you were
3 behaving the way you were behaving and what's
4 different about you now. And if you can't get into an
5 Anger Management Program in the institution, do
6 something on your own, okay. Because you coming in
7 here at the end of your hearings and throwing a temper
8 tantrum as was referred to by multiple Commissioners,
9 is not going to do you any good. It just makes you
10 look bad and for the most part, you've conducted
11 yourself really well in this hearing and you seem to
12 be conducting yourself well in the institution, but if
13 certain things set you off, we have to be worried
14 about that. So, I'm giving you the best advice I can
15 here. I -- you're doing a good program, you haven't
16 done as much work since your last hearing as you were
17 doing before, and I know that there's been a shortage
18 of programs. I really want to encourage you to do some
19 work on your own so that you can come back here loaded
20 with the self-help and just come back looking really
21 good instead of (Indiscernible). All of the
22 Commissioners agreed with the prior decisions, they
23 all do. So, when you do stuff like that, it raises
24 people's (Indiscernible). This was a crime where
25 nobody was dead, nobody got hurt, it was a bad crime
26 and you had prior prison terms, but you ought to be
27 WILBUR MCCLORE C-50493 DECISION PAGE 3 9-12-05

1 able to get out of prison. You just need to do those
2 things and first of all, I hope that you're back here
3 on exactly the same date next year as you are today
4 and that you'll come back having considered seriously
5 what I just told you. And this completes the decision.
6 Do you have any comments?

7 DEPUTY COMMISSIONER MCBEAN: Yea. I couldn't
8 agree more and I think Commissioner Fisher really said
9 it well, and I hope that you heard her words. The only
10 thing that I wrote down, she was trying to question
11 you about your level of insight and why you committed
12 the crime, you said you didn't use drugs, I noticed
13 some reference in the past of experimentation with
14 marijuana, that is in the prior transcripts, we do
15 count that, but what you said was, "I was just
16 stressing". That is all I heard from you in terms of
17 insight as to why you did this crime. You know,
18 hanging out with the wrong people and you were just
19 stressing, you weren't under the influence, you
20 weren't using drugs, and you stress in these hearings,
21 as has been pointed out. You had to be shot in '94 to
22 get you to stop fighting. So, all that kind of adds up
23 to, you need to be able to better understand what got
24 you there and be able to better discuss it here and to
25 be able to handle the decisions made about you when
26 you don't like them, which is what I think we're

1 seeing consistently over the years, at the Board. We
2 know you want to get out of prison, we understand
3 that, but you need to be able to handle the things
4 that don't go your way in life without stressing and
5 hurting somebody or hurting yourself in the process,
6 which is what you do when you come here and you don't
7 handle it well. So, she gave you excellent advice, I
8 couldn't agree more, you've done zero self-help since
9 your last hearing and that's not a good thing either.
10 You need to be doing something to get into anything
11 and everything that you can because, don't tread water
12 and think, okay, I've done enough and that's all I'm
13 going to do, that's not a good thing either. You need
14 to get out there and find something, get involved in
15 it and try to gain everything you can to gain as much
16 insight as you can. Because no one's ever done
17 growing, and that includes us. Okay. Well, good luck
18 to you sir.

19 **PRESIDING COMMISSIONER FISHER:** One more thing,
20 I just want to plant a seed here Mr. McClore and that
21 is that, when the Panel finds you suitable, you're
22 going to have to pass mustard at the Governor's desk
23 and he's going to be reading these decisions too. They
24 will pick apart everything, so you just want to be the
25 best package you can be, and because of these comments
26 that have been made in the past, you really want to do
27 **WILBUR MCCLORE C-50493 DECISION PAGE 5 9-12-05**

1 whatever you can over the next 12 months to counter
2 act that. Because all you are when you hit his desk is
3 a file. He doesn't have an opportunity to sit across
4 the table and talk to you like the Commissioners do,
5 so -- and certainly that has nothing to do with
6 whether a Panel finds you suitable, but I think it's a
7 shame when a Panel does find an inmate suitable who
8 really has done a good job, if there's something that
9 they haven't been able to address on paper and the
10 Governor sends it back. So I just want you to be
11 thinking about that and doing what you need to do for
12 yourself and to dot all the I's and cross all the t's.
13 And I think your close. All right. Good luck sir.

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23 PAROLE DENIED FOR 1 YEAR.

24 THIS DECISION WILL BE FINAL ON: ~~JAN 10 2006~~

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT DATE,

26 THE DECISION IS MODIFIED

27 WILBUR MCCLORE C-50493 DECISION PAGE 6 9-12-05

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, TIFFANY BILLINGSLEY, a duly designated transcriber, PETERS SHORTHAND REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 44, and which recording was duly recorded at VALLEY CORRECTIONAL TRAINING FACILITY, SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING OF WILBUR McCLORE, CDC NO. C-50493, ON SEPTEMBER 12, 2005, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated SEPTEMBER 19, 2005, at Sacramento,
California.



TIFFANY BILLINGSLEY
TRANSCRIBER
PETERS SHORTHAND REPORTING

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CALIFORNIA BOARD OF PRISON TERMS

D E C I S I O N

DEPUTY COMMISSIONER LUSHBOUGH: We're on record.

PRESIDING COMMISSIONER BORDONARO: We're back on the record in the case of Mr. McClore. All those that were previously in the room have returned. The Panel has received -- Excuse me, reviewed all of the information received from the public and relied on the following circumstances in concluding that the prisoner is not yet suitable for parole and would pose an unreasonable risk of danger to society or a threat to public safety if released from prison. The commitment offense was carried out in a cruel manner. It was carried out in a manner which demonstrates a callous disregard for human suffering. These conclusions were drawn from the Statement of Facts wherein the prisoner and his crime partner did kidnap for robbery a Kristi Boucher. Apparently she had come into a Wendy's restaurant. The crime partner seemed to be the main instigator of this event. Shoved her back in the car, they ended up taking her to a mall, making her buy clothing, shoes and other clothes for them. And then she was taken and dropped off after other items were stolen from her, including

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1 her car. This was over a period of, according to
2 the appellate decision, a couple of hours they had
3 her kidnapped. The crime partner apparently did
4 threaten her, terrorized her, and she was
5 traumatized from the event. His previous record,
6 he did fail previous grants of probation and
7 parole. He had failed to profit from society's
8 previous attempts to correct his criminality.
9 Those attempts did include a prior prison term,
10 probation and some county jail time. He had an
11 unstable social history and prior criminality,
12 which includes not completing school, he had a
13 petty theft, a burglary, and then there's his ADW,
14 which is the second commitment offense. There was
15 a probation revocation. Shows an escalating
16 pattern of criminal conduct. He went from petty
17 theft to a burglary to an ADW, to this kidnapping.
18 He was also unemployed at the time of the offense,
19 and had been for some period of time. Excuse me.
20 Institutionally, he's not yet sufficiently
21 participated in beneficial self-help and therapy
22 programming. He's had six 115s since he's been
23 incarcerated, the last one of those in 1997 for
24 failure to participate. He's had no 128s this
25 term. Psychological report is generally favorable,
26 it's by a M. Carswell. States that he is no more

27 **WILBUR MCCLORE C-50493 DECISION PAGE 2 07/18/02**

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1 dangerous than -- "No more threat of violence or
2 dangerous than any other citizen in the community."
3 I find that -- It's actually signed by Steven
4 Terrini for Martha Carswell. I find that strange,
5 given the fact that she also gives him, Axis II --
6 Diagnostic Impression Of An Adult Antisocial
7 Behavior Improved, which means every other citizen
8 in the community must have that diagnosis, or
9 something's just not right. It's a little
10 contradictory. We'll ask for a new psych report to
11 be done just to clear up that. It may be a minor
12 issue, however it does cast some shadow on this
13 psychological report. And we'll ask for another
14 psych report to be performed. His parole plans, he
15 has letters of support on file from Los Angeles
16 County, friends that could give him a place to live
17 and a place to work. He wants to eventually go
18 back to Tennessee where his family lives, most of
19 his family. The Hearing Panel notes that 3042
20 notices were sent out. There was a response by the
21 District Attorney of Los Angeles County who sent a
22 representative here today who did oppose parole.
23 We'll note that the Correctional Counselor believes
24 that this inmate would pose a low degree of threat.
25 The Panel makes the following findings. That the
26 prisoner does need continued self-help programming

27 **WILBUR MCCLORE C-50493 DECISION PAGE 3 07/18/02**

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1 in order to face, discuss, understand and cope with
2 stress in a non-destructive manner. And until
3 progress is made, he continues to be unpredictable
4 and a threat to others. He should be commended for
5 not having any 115s since 1994, for his average to
6 above average work reports, he has a laudatory
7 chrono concerning his conduct in his Wing. He's
8 been participating in Impact, self-study program
9 also, in Anger Management. He completed two
10 vocations in the past, Graphic Arts and Mill and
11 Cabinet, and he's also completed a GED. However,
12 these positive aspects of his behavior do not yet
13 outweigh the factors of unsuitability. This is a
14 one-year denial. We recommend that the prisoner
15 remain disciplinary free, that if it's available to
16 him, he continue to participate in self-help and
17 therapy programming as it's available to him. Also
18 to cooperate with clinicians in the completion of a
19 new clinical evaluation prior to his next Board
20 appearance. That concludes the reading of the
21 decision.

22 **INMATE MCCLORE:** Can I say something?

23 **PRESIDING COMMISSIONER BORDONARO:** Hold on a
24 second. Commissioner Lushbough, any comments?

25 **DEPUTY COMMISSIONER LUSHBOUGH:** No, I have
26 no comments. Thank you.

27 **WILBUR MCCLORE C-50493 DECISION PAGE 4 07/18/02**

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1 **PRESIDING COMMISSIONER BORDONARO:** Do you
2 have a comment, Mr. McClore?

3 **INMATE MCCLORE:** Yes. I'd like to ask a
4 question, because I didn't know, I just got to find
5 this out. If I'm constantly going to be denied for
6 my history, and I'm going to constantly be denied
7 for the nature of the case, what good is it, me
8 still coming in here, even if I go back and do the
9 new psych report? I don't understand.

10 **PRESIDING COMMISSIONER BORDONARO:** Well, it
11 does you a lot of good, Mr. McClore. Because if
12 you don't come in, it's going to be that much more
13 difficult to get yourself a parole date.

14 **INMATE MCCLORE:** That's the same --

15 **PRESIDING COMMISSIONER BORDONARO:** Hold on.

16 **INMATE MCCLORE:** Okay.

17 **PRESIDING COMMISSIONER BORDONARO:** Now you
18 asked me a question, --

19 **INMATE MCCLORE:** Yeah.

20 **PRESIDING COMMISSIONER BORDONARO:** -- let me
21 finish it. All right. You obviously are somewhat
22 frustrated, and I understand that. We talked about
23 it for quite a while. You've been in prison for a
24 long time, no one was physically hurt, injured,
25 there wasn't permanent physical damage to
26 Ms. Boucher, that's a good thing. You've got a lot

27 **WILBUR MCCLORE C-50493 DECISION PAGE 5 07/18/02**

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1 of things that are going in your favor, so don't
2 take this as a negative.

3 **INMATE MCCLORE:** I have to because I got
4 denied parole. And I'd like to say this too.
5 There's no more self-help programs here, I done
6 took every last one of them. The psych even said
7 that with the last one I took. Why should any more
8 self-help that I got to take, or could take or find
9 anywhere in this institution, when they constantly
10 saying, there's no more.

11 **PRESIDING COMMISSIONER BORDONARO:** Well, you
12 know what, the past --

13 **INMATE MCCLORE:** I don't know what to do.

14 **PRESIDING COMMISSIONER BORDONARO:** First of
15 all, the past doesn't bind the future. What's
16 available today isn't necessarily what's going to
17 be available tomorrow. There is a long list of
18 self-help groups that are here, new things come up.
19 There's other things that come available. If you
20 want, there's a list of them that we reviewed
21 today, and I reviewed your list, there are some
22 self-help programs here a Soledad that you haven't
23 taken. You need to investigate those. Whoever is
24 telling you that, I don't think is telling you 100
25 percent of the truth. What you need not to do is
26 to become discouraged and frustrated and give up,

27 **WILBUR MCCLORE . C-50493 DECISION PAGE 6 07/18/02**

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1 because I think you're extremely close. You've got
2 one Commissioner to vote for you last time, you
3 know. We didn't see it that way today, but it
4 doesn't mean that the next time you come, it's not
5 going to be different. I wouldn't, if I were you,
6 give up, become frustrated and do something that's
7 going to set you further back. Because we both
8 believe that you're extremely close to a parole
9 date. Any comments?

10 **DEPUTY COMMISSIONER LUSHBOUGH:** No. I agree
11 with you. I concur 100 percent.

12 **PRESIDING COMMISSIONER BORDONARO:** All
13 right. I'm going to conclude the hearing at 4:05.
14 Good luck.

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25 **PAROLE DENIED ONE YEAR**

26 **EFFECTIVE DATE OF THIS DECISION** AUG 09 2002

27 **WILBUR MCCLORE C-50493 DECISION PAGE 7 07/18/02**

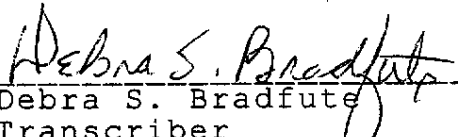
72

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I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated August 05, 2002, at Sacramento County, California.


Debra S. Bradfute
Transcriber
CAPITOL ELECTRONIC REPORTING

1 CALIFORNIA BOARD OF PRISON TERMS

2 D E C I S I O N

3 PRESIDING COMMISSIONER LAWIN: We're back on
4 record and all parties have returned to the room
5 in the hearing for Mr. McClore. The Panel
6 reviewed all information received from the public
7 and relied on the following circumstances in
8 concluding that the prisoner is not yet suitable
9 for parole and would pose an unreasonable risk of
10 danger to society or a threat to public safety if
11 released from prison. This is a majority decision
12 and a one-year denial. The commitment offense was
13 the kidnap of Christie Boucher. She was taken
14 from a restaurant and in her car -- in her own
15 car. She was driven to a location where she was
16 forced to purchase clothing, shoes for the inmate
17 and his crime partner. Objects of hers were taken
18 while she was in the car and the inmate and his
19 crime partner were in the car with her. They then
20 dropped her off on a freeway. This offense was
21 carried out in a cruel manner. The victim was of
22 course terrorized in that she was kidnapped from
23 an area where she probably thought she was quite
24 secure, which was a Wendy's Restaurant. And this
25 offense was carried out in a manner which
26 demonstrates a disregard for human suffering in
27 WILBUR MC CLORE C-50493 DECISION PAGE 1 6/07/01

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1 that she was held to give up her belongings and to
2 use her credit card to pay for items for the
3 inmate and his crime partner. The prisoner had an
4 escalating pattern of criminal conduct. He had
5 failed to profit from society's previous attempts
6 to correct his criminality. Such attempts
7 included adult probation, parole, county jail, and
8 a prior prison term. He had previous criminality
9 of -- consisting of arrests for petty theft and
10 theft by credit card, went on to burglary for
11 which he received a two-year state prison term.
12 He then had an arrest initially for pimping, which
13 was dismissed, then assault with a deadly weapon,
14 great bodily injury with force, and he -- his
15 parole was revoked at some point, he was put back
16 into CDC, and ultimately the commission of the
17 instant offense. And the prisoner has not
18 sufficiently participated in beneficial self-help
19 programs. In terms of parole plans, he does not
20 acceptable employment plans. However, this Panel
21 is fully aware of the fact that he has, since
22 coming into CDC, suffered a disability which will
23 hinder his ability to gain employment in certain
24 areas, and he has certainly been looking to see
25 what's out there in terms of resources to assist
26 him in finding employment that he will be able to
27 **WILBUR MC CLORE C-50493 DECISION PAGE 2 6/07/01**

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1 participate in. And the Hearing Panel notes that
2 the District Attorney's office of Los Angeles
3 County responded to P.C. 3042 notices and opposed
4 parole. The Panel finds that the prisoner needs
5 continued therapy in order to face, discuss,
6 understand, and cope with stress in a
7 nondestructive manner, and until further progress
8 is made, continues to be unpredictable and a
9 threat to others. Nevertheless, he has much to be
10 commended for. The fact that he did acquire his
11 GED in 1990. He has certification in graphic arts
12 and mill and cabinet. He has participated for at
13 least four years in a 12 step program,
14 participated in the children's holiday festival,
15 donated his time, and previously had participated
16 in the Science of Mind course, Bible
17 correspondence courses, individual therapy, the
18 Muslim-sponsored courses, served as a literacy
19 tutor, and participated in the ROCK program. He
20 also has had good work reports, has a couple of
21 laudatory chronos for his work, and currently is
22 serving as a photographer in the visiting room.
23 The one area that is unfortunate is the fact that
24 in 1997 he did receive a 115 for failure to
25 participate and that is one of six total 115s
26 throughout his incarceration. These positive

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1 aspects of his behavior do not yet outweigh the
2 factors of unsuitability. During the course of
3 the next year, the Panel recommends that you
4 remain disciplinary-free. Don't even add a 128.
5 I mean, you don't have any 128s now, but you
6 really did yourself a disservice by getting in
7 that situation in '97 to acquire a 115 and I hope
8 that when you come back here next year there will
9 be nothing new added to the list. And if
10 available, participate in whatever self-help
11 becomes available to you. Commissioner Welch,
12 would you like to make comments?

13 **COMMISSIONER WELCH:** Yes. I dissented for a
14 parole date because I think that you're reaching a
15 point where you seem significantly remorseful for
16 what happened, and I think that you have a lot of
17 family support out there, people that's willing to
18 support you once you get out. I feel that what
19 you have to do now is not get discouraged, but you
20 have to persevere and continue to firm up the
21 areas that you're weak in. And one more vote and
22 you get a parole date. So, you have to convince
23 one more Commissioner. So, I encourage you to go
24 back and continue to do a good program. And as
25 Commissioner Lawin said, the disciplinary progress
26 can be very devastating to you should you receive
27 **WILBUR MC CLORE C-50493 DECISION PAGE 4 6/07/01**

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1 even a 128. Thank you.

2 **PRESIDING COMMISSIONER LAWIN:** Commissioner
3 Harmon?

4 **DEPUTY COMMISSIONER HARMON:** Yeah, a couple
5 of things, Mr. McClore. First of all, I share
6 some of the same concerns that were mentioned by
7 the District Attorney. And if you could, I would
8 like to see you get involved more in the area of
9 Anger Management. I share some of those same
10 concerns. And I was going to ask you also, did
11 you write this brief?

12 **INMATE MC CLORE:** Well, some of it, not all
13 of it

14 **DEPUTY COMMISSIONER HARMON:** Okay. Okay.
15 But anyway, I want to commend you for that because
16 it's well done. I didn't asked you if you'd
17 proofread it because in here it says you've been
18 disciplinary-free since 1957 and I don't think --

19 **INMATE MC CLORE:** '57?

20 **DEPUTY COMMISSIONER HARMON:** Yeah, I don't
21 even think you're that old. And, of course, at
22 the beginning here, the life crime, you weren't
23 convicted in April of '97, you know, you were
24 convicted in February of '87, so -- by a jury
25 trial. And I -- You know, little things like
26 that. But the fact that you took the time to put

27 **WILBUR MC CLORE C-50493 DECISION PAGE 5 6/07/01**

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1 that document together or whatever is good because
2 it really helps point out a lot of your
3 accomplishments. Other than that, I would like to
4 see you get more involved in the area of self-help
5 in specifically Anger Management. I really think
6 you're close to a date. And if you can't find it
7 within the institution, I would encourage you to
8 get involved maybe with the library or any other
9 way of self-study. Anyway, that's what I had to
10 say, and I encourage you to do it. That's all I
11 have.

12 PRESIDING COMMISSIONER LAWIN: And if you do
13 the self-study, bring next year your references,
14 what you did. That will conclude this hearing at
15 11:30.

16 ATTORNEY CHAMPLIN: Can I get the briefs
17 back or does the Board --

18 PRESIDING COMMISSIONER LAWIN: Oh, I
19 submitted --

20 ATTORNEY CHAMPLIN: Okay.

21 PRESIDING COMMISSIONER LAWIN: I --

22 ATTORNEY CHAMPLIN: Made it a part of the
23 packet?

24 --o0o--

25 PAROLE DENIED ONE YEAR

26 EFFECTIVE DATE OF THIS DECISION JUL 02 2001

27 WILBUR MC CLORE C-50493 DECISION PAGE 6 6/07/01

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**CERTIFICATE AND
DECLARATION OF TRANSCRIBER**

I, PATRICIA M. JOHNSON, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 60, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of WILBUR MC CLORE, CDC No. C-50493, on JUNE 7, 2001, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated June 20, 2001, at Sacramento County, California.



Patricia M. Johnson
Transcriber
CAPITOL ELECTRONIC REPORTING

EXHIBIT “D”

PSYCHOLOGICAL EVALUATION FOR THE BOARD OF PRISON TERMS
(REVISED AUGUST 1998)
PAROLE CONSIDERATION HEARING
JULY 2003 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
OCTOBER 7, 2003

This is the eighth psychological evaluation for the Board of Prison Terms on inmate Wilbur McClore, CDC# C-50493. This report is the product of a personal interview, lasting approximately one hour, conducted on 10/07/03, as well as a review of his Central file and unit health record. This single contact, psychodiagnostic interview was for the express purpose of preparing this report.

PSYCHOSOCIAL ASSESSMENT

I. IDENTIFYING INFORMATION:

Inmate McClore is a 47-year-old, single, African-American male. He professes a strong Christian background and belief system. He presented as well groomed, and his only obvious unusual physical characteristic was the fact that he was walking with a cane, and a slight limp. Inmate McClore indicated that, as he is from Memphis, Tennessee, he has the nickname of "Memphis" here at CTF.

II. DEVELOPMENTAL HISTORY:

Inmate McClore is the fifth of six children. He has four brothers, and one sister. The inmate indicated that his development was totally normal, and unremarkable. He denied any history of cruelty to animals, or a history of arson. He denied any significant childhood medical problems, reporting only normative childhood illnesses. He denied a history of physical or sexual abuse, as either a victim or a perpetrator.

III. EDUCATIONAL HISTORY:

Inmate McClore attended public school through the 11th grade, and earned his GED while at Folsom State Prison in 1990. Inmate McClore indicates that he has not been enrolled in the education program for a number of years, as his performance is far above the minimum required. His current TABE score was not available to this clinician, but his presentation indicates that his education level is above average for this population.

IV. FAMILY HISTORY:

Inmate McClore's parents are both deceased. He indicates that the majority of his siblings continue to reside in and around Memphis, Tennessee. He indicates that,

McCLORE, WILBUR
 CDC NUMBER: C-50493
 BPT PSYCHOLOGICAL EVALUATION
 PAGE TWO

as his family are living outside of the State of California, he has not been able to enjoy family visits. He indicated, however, that his family remains close, and keep in touch through letter writing and telephone contact. Inmate McClore stated that no other member of his family has a criminal history. He characterized his family as a strict Baptist family.

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

Inmate McClore is a heterosexual male, and denies any high-risk sexual behavior. He indicated that his first experience of sexual intercourse was at the age of approximately 17 or 18 years. He reported no non-normative sexual behavior.

VI. MARITAL HISTORY:

Inmate McClore has never been married, but he has two adult sons—Sky is 25 years of age, and D'metriss is 19 years of age. He indicated that, at present, he is not a grandparent. He stated that his relationship with his children is good, and he stays in touch with both of them by telephone.

VII. MILITARY HISTORY:

This inmate denied any history of military service.

VIII. EMPLOYMENT/INCOME HISTORY:

The record indicates that inmate McClore held numerous jobs prior to incarceration. He reported having worked as a warehouseman, and worked painting airplanes.

Since his incarceration, he indicated that he has completed a three-year course of print design through the print shop, and has received a certificate of completion. He also completed a two-year program in the mill and cabinet shop, for which he received a certificate of completion.

Currently, inmate McClore is employed as a porter, with the responsibilities of the visiting area's official photographer. His duties include photographing inmates and their families. The sergeant in charge of visiting wrote a laudatory chrono on 06/30/03, in which he stated, "Mr. McClore has been a very positive influence in the visiting room." He went on to state, "Mr. McClore is always respectful of other inmates and their families, and is very efficient in helping them with their needs in the visiting room. Mr. McClore's helpfulness is appreciated." Inmate McClore's Central file contains many laudatory chronos extolling his cooperative nature, his competency, and his excellent work ethics. He appears to be frequently commended by staff.

McCLORE, WILBUR
CDC NUMBER: C-50493
BPT PSYCHOLOGICAL EVALUATION
PAGE THREE

IX. SUBSTANCE ABUSE HISTORY:

Inmate McClore denies any history of drug abuse. A thorough review of his Central file reveals no history of substance abuse. He indicated that he did consume alcohol in social situations, but never felt that he had an alcohol problem.

Inmate McClore indicated that he attended Alcoholics Anonymous and Narcotics Anonymous, primarily for social reasons, and to heighten his awareness of the issues related to alcoholism and drug addiction. There is no indication that any alcohol treatment has ever been required.

X. PSYCHIATRIC AND MEDICAL HISTORY:

Inmate McClore has no prior history of psychiatric illness, or of a psychiatric disorder. He is not being treated for psychiatric or stress-related issues currently.

Inmate McClore reports being hospitalized in 1994, after having been accidentally shot by custody staff. As a result of that injury, he has a significant limp, and walks with a cane. His medical file indicates multiple treatments, and the use of multiple medications in an attempt to assist him in dealing with both the pain and other related difficulties with this disability.

Inmate McClore indicates that, other than for treatment related to his leg injury, he is completely healthy, and denies any other medical issues.

XI. PLANS IF GRANTED RELEASE:

Inmate McClore indicates that he has three job offers---one in the Los Angeles area, one in the San Jose area, and one in Tennessee. He indicated that, if the Board of Prison Terms sees fit to release him to Los Angeles, California, he has been offered a salesman's position with a beauty supply shop and salon owned by a personal friend. He indicated that the friend has also offered to provide him permanent residence. He indicated that the correctional counselor I has contacted the salon owner, and has confirmed her offer of employment. In the CC-I's report, entitled Life Prisoner Evaluation Report, Subsequent Parole Consideration Hearing, July 2003 Calendar, the CC-I verifies his future plans, and employment opportunities. If the parole board sees fit to release him to Santa Clara County, he indicated that he has been offered a janitorial services job, also with a personal friend who owns the service. Inmate McClore's long-term goal is to return to Tennessee, and work with his brother as a landscaper. He is aware that this option is less likely than the others, but indicates when he completes his parole period in whatever jurisdiction deemed appropriate by the board, his plan is to return to Tennessee, and to reunite with his siblings. His parole plans appear very reasonable to this clinician, and there is every expectation that he would complete his parole without incident.

McCLORE, WILBUR
 CDC NUMBER: C-50493
 BPT PSYCHOLOGICAL EVALUATION
 PAGE FOUR

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

Inmate McClore is 47-year-old, African-American male of medium build who appeared his stated age. He was alert, cooperative, and calm. His attire was extremely well maintained, as was his grooming. His speech, affect, and flow of thought were all within normal range. His intellectual functioning appeared well within the average range, if not slightly above. Due to the leg injury previously mentioned, he walks with a slight limp, and with a cane. In discussing his commitment offense, and his maturity over his years of incarceration, he was insightful, thoughtful, and clearly remorseful. His judgment is sound, and there is absolutely no evidence of a mood or thought disorder.

The record indicates that he has been given the Axis II diagnosis of adult antisocial behavior, improved. His presentation throughout the one hour, psychodiagnostic interview, and his reported behavior throughout his incarceration, provides no clinical indication of adult antisocial behavior. Since it has been reported by previous clinicians as being present, but improved, I am left with no other alternative, other than to report that he has adult antisocial behavior, by history. But I want to make it perfectly clear that I found no evidence of this diagnosis during this present evaluation.

CURRENT DIAGNOSTIC IMPRESSIONS:

AXIS I: No Contributory Clinical Disorder.
 AXIS II: Adult Antisocial Behavior, by history only.
 AXIS III: No Contributory Physical Disorder.
 AXIS IV: Incarceration.
 AXIS V: Current GAF = 90.

Inmate McClore's parole prognosis is excellent. There is virtually no indicator suggesting otherwise. He has participated in virtually every activity of self-help offered in the institution over the years of his incarceration. He has made excellent use of his incarceration time, and has gained varied and valuable knowledge that he did not previously possess. In fact, to this clinician's knowledge, there are no additional self-help groups or services provided by the psychology department of the institution that has anything more to offer to this inmate. He has already used them wisely, and has made great strides in his personal development.

In a laudatory chrono dated 04/29/02, facility captain Guerra indicated that he had attended a 13-week, Impact Workshop. The chrono was lengthy, and ended with this statement, "Inmate McClore, is to be commended for his participation and willingness to gain insight and empathy for the victim of crime." To better

McCLORE, WILBUR
CDC NUMBER: C-50493
BPT PSYCHOLOGICAL EVALUATION
PAGE FIVE

understand the significance of this chrono, the board would be encouraged to read it in its entirety.

In this same vein, on 11/21/01, correctional officer Bann wrote an informational laudatory chrono that was fairly lengthy. In excerpts from that chrono, he stated, "As a correctional officer of over 18 years' experience, it is my professional opinion that Mr. McClore demonstrates an extremely high degree of maturity, responsibility, and understanding in dealing with the stresses, tensions, and problems of this prison environment." He went on to state, "His personal interactions, and contact with both staff and inmates alike has always been void of any disrespectful or behavioral problems; always demonstrating an outward air of likeability for all those he comes in contact with, or has the slightest interaction with. It is my opinion that, once reintroduced back into society through parole, he will continue to demonstrate those qualities of maturity, responsibility, and empathy necessary to fulfill his role as a law-abiding and productive citizen." There is nothing in my contact with the inmate, or a review of his medical and Central file, that would disagree with officer Bann's assessment.

XIII. REVIEW OF LIFE CRIME:

When queried about the commitment offense, inmate McClore is matter-of-fact, direct, and takes full responsibility for his behavior. He stated several times how remorseful he was for what he had done, and as in previous board reports, he was apologetic for the money that he has caused the State of California to waste on both his criminal trial and incarceration. At no time did he minimize his responsibility, or the impact of his behavior on the victim. He indicated that, had he been victimized in the same way, he would have been traumatized, and he realizes the trauma that he has caused the victim. He went on to state that neither he nor his crime partner had any desire to hurt the victim in any way, but he now realizes that the mere fact of the robbery and the kidnapping was sufficient to traumatize the victim, and for that he is extremely remorseful and apologetic.

XIV. ASSESSMENT OF DANGEROUSNESS:


- A. Inmate McClore has received no CDC-115s or CDC-128s in almost seven years. His last CDC-115 was relatively minor, and involved talking too loud in an education class. As previously documented by Captain Guerra and Officer Bann, this inmate has demonstrated his ability to reduce his potential threat of violence in the institution. Given all of the above information, it is this clinician's opinion that this inmate poses a considerably lower degree of threat than the average Level II inmate.
- B. If released to the community, this inmate poses no more threat of violence or dangerousness than any other citizen in the community.


McCLORE, WILBUR
CDC NUMBER: C-50493
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PAGE SIX

- C. In searching this inmate's Central file, and his previous report, there are no significant risk factors or precursors to violence that were located by this writer.
- D. Inmate McClore has availed himself of all of the self-help programs provided by CDC at this institution. At the present time, there are no additional self-help or psychological services that can be rendered to this inmate to increase his self-awareness; he has already reached maximum benefit.

XV. CLINICIAN OBSERVATIONS/COMMENTS/RECOMMENDATIONS:

- A. Inmate McClore is competent and responsible for his behavior. He has demonstrated a clear ability to abide by institutional standards, and has done so through the majority of his incarceration.
- B. This inmate does not have a mental health disorder which would necessitate treatment, either during his incarceration period or following parole.
- C. Inmate McClore does not have an alcohol or drug problem that would necessitate treatment, either during his incarceration period or following parole.
- D. As this inmate has availed himself of all of the self-help and psychological assistance that can be offered by CDC, there are no additional services that can be provided to him. He appears to be an excellent candidate for parole.


S. SEXTON, Ph.D.
Consulting Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD


B. ZIKA, Ph.D.
Senior Supervising Psychologist
CORRECTIONAL TRAINING FACILITY, SOLEDAD

SS/gmj

D: 10/07/03
T: 10/09/03

McCLORE

C-50493

CTF-CENTRAL

10/07/03

gmj

NAME AND NUMBER: McClore (C-50493)

CTF

INFORMATIONAL CHRONO 128b

The Board of Prison Terms Psychological Evaluation Report completed for Inmate McClore, by Dr. Sexton, in October, 2003 is still accurate and considered up-to-date. We do not see the need for any further updates to this report, as there has been no significant change in Inmate McClore's mental health condition. We have referred this to the BPH Desk at the C&PR office for further clarification and assignment, as needed.



B. Zika, Ph.D.
Senior Psychologist

Date: 02/01/07

Orig: C-file

Copy: Inmate

MH File

Medical File

Correctional Counselor

B. Zika, Ph.D.

Senior Psychologist

CTF - Soledad

DATE RECEIVED
3-8-07
C/O N. McClore
9/9/07

BOARD OF PAROLE HEARINGS
LIFE PRISONER HEARING DECISION FACE SHEET

STATE OF CALIFORNIA

- ☐ PAROLE GRANTED - (YES)
- ☐ CDC: Do not release prisoner before Governor's Review

☒ PAROLE DENIED - (NO)

Lyne

Records Use Only

Parole Release Date

YR MO DAY

Attach Prison Calculation Sheet

- ☐ AGREED UNSUITABLE (Attach 1001A Form) FOR: _____ YEAR(S)
- ☐ HEARING POSTPONED/REASON: _____

PANEL RECOMMENDATIONS AND REQUESTS

The Board Recommends:

- ☒ No more 115's or 128A's
- ☐ Work to reduce custody level
- ☒ Get self-help*
- ☐ Stay discipline free
- ☒ Learn a trade* *as available*
- ☒ Get therapy* *as available*
- ☒ Earn positive chronos
- ☐ Get a GED*

☐ Recommend transfer to

☒ Other *New psych eval per BPT 1000(a) p. 9 11.*

*These programs are recommended if they are offered at your prison and you are eligible / able to participate.

Penal Code 3042 Notices ☒ Sent Date: 11/21/06

Commitment Offense(s)

PC 209 (B) CS/ 667.5 (B)

Code(s)

KIDNAP/ ROBB W/ PPT-NU (1)

Crime(s)

A811397

Case(s)

14

Count(s)

Date Inmate Came to CDC

04/06/87

Date Life Term Began

Minimum Eligible Parole Date

04/04/93

☐ Initial Hearing

☒ Subsequent (Hearing No.) 9

Date of Last Hearing

09/12/05

CDC Representative D. S. LEVORSE, C&PR

Attorney for Prisoner MARY ANN TARDIFF

Address

D.A. Representative

County LOS ANGELES

This form and the Board's decision at the end of the hearing on only proposed and NOT FINAL. It will not become final until it is reviewed.

Chair

Date

Panel Member

Date

Panel Member

Date

NAME

CDC#

PRISON

CALENDAR

DATE

MC CLORE, WILBUR

C-56493

CTF-SOLEIDAD

JAN 2007

01/5/07

B/T 10/10/08

BOARD OF PRISON TERMS

STATE OF CALIFORNIA

SETTING A LIFE PRISONER TERM - PAROLE DENIED

11. NOTE TO CDC STAFF: RECOMMENDATIONS AND REQUESTS

☒ 3. the panel's belief that the prisoner's current mental health is an important issue. In the new full evaluation, the panel requests that the clinician specifically address the following:

☒ a. the prisoner's violence potential in the free community;

☒ b. the significance of alcohol/drugs as it relates to the commitment offense and an estimate of the prisoner's ability to refrain from use/abuse of same when released;

☒ c. the prisoner's psycho-sexual problems;

☒ d. the extent to which the prisoner has explored the commitment offense and come to terms with the underlying causes;

☒ e. the need for further therapy programs while incarcerated.

☒ f. other

I'm historically, incl 90, has issues w/ women plus evidenced anger during leaving, leading panel to conclude

☐ 4. the panel's belief that the prisoner has deteriorated psychologically and there appears to be a need for treatment. The panel bases this conclusion upon

he needs therapy to gain insight (as difficult as he is actually) his criminality

☐ B. (Other requests to CDC staff):

no other requests

PSYCHOLOGICAL EVALUATION FOR THE BOARD OF PRISON TERMS
PAROLE CONSIDERATION HEARING
JUNE 1999 LIFER CALENDAR

CORRECTIONAL TRAINING FACILITY, SOLEDAD
MAY 13, 1999

This is the fifth psychological evaluation for the Board of Prison Terms on inmate Wilber Mc Clore. This report is the product of a personal interview, conducted on 05/13/99, as well as a review of his Central file and unit health record. This single contact interview was for the express purpose of preparing this report for the Board of Prison Terms.

I. IDENTIFYING INFORMATION:

Inmate Mc Clore is a 42-year-old, single, black, Christian male. He had no obvious unusual physical characteristics. Since he is from Memphis, Tennessee, he is often called "Memphis" here at CTF.

II. DEVELOPMENTAL HISTORY:

Inmate Mc Clore was the fifth of six children. He reported no prenatal or perinatal concerns or birth defects. There were no abnormalities of developmental milestones. He walked, talked and developed at an unremarkable rate. He denied any history of cruelty to animals or a history of arson. He stated that he had no significant childhood medical history other than the regular childhood diseases. He denied a history of physical or sexual abuse as either a victim or a perpetrator.

III. EDUCATIONAL HISTORY:

Inmate Mc Clore finished the 11th grade in public school and received his GED from Folsom in 1990. His current T.A.B.E. score was unavailable. However, he has performed acceptably in education to this point.

IV. FAMILY HISTORY:

Inmate Mc Clore's mother is deceased. His father is currently 74 years old and in fair health. His family continues to reside in Tennessee, with one brother in Texas, and since all of his family is out of state,

MC CLORE, WILBER
CDC NUMBER: C-50493
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PAGE TWO

does not get many visits except from a niece. He does remain close to his family and they write and use the phone to stay in touch.

V. PSYCHOSEXUAL DEVELOPMENT AND SEXUAL ORIENTATION:

This inmate is heterosexual and denied any high-risk sexual behavior and denied any sexual behavior while incarcerated.

VI. MARITAL HISTORY:

Inmate Mc Clore has never been married, but has a 21-year-old son from a previous, five year relationship. This son resides in Texas. He also has a 14-year-old son from a previous, three year relationship. This son resides in Palmdale. He states that his relationship with his children is good and he stays in touch with both of them by phone.

VII. MILITARY HISTORY:

This inmate denied any history of military service.

VIII EMPLOYMENT AND INCOME HISTORY:

This inmate held numerous jobs before incarceration. He painted airplanes and worked as a warehouseman for a computer company in Northridge, California. Since incarceration, he has completed a vocation in mill and cabinet. He currently works as a clerk in the print shop, where he is also completing a vocation. The chronos in his Central file are all excellent for hard work, cooperation and competency in his chosen dedications.

IX. SUBSTANCE ABUSE HISTORY:

This inmate has always attended Alcoholics Anonymous and Narcotics Anonymous, but only for social reasons. A thorough review of his Central file reveals no history of any substance abuse or drug abuse problem whatsoever. Currently, he is continuing to attend because the Board of Prison Terms requested he continue to do so, so he is following their direction. However, he states he was not under the influence of anything at

MC CLORE, WILBER
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PAGE THREE

the time of his commitment offense and has no history of any substance abuse.

X. PSYCHIATRIC AND MEDICAL HISTORY:

This inmate has no prior medical or psychiatric diagnosis or serious illnesses. His only prior hospitalization or serious accident would be in 1994; while an inmate at Corcoran State Prison, he was involved in an altercation with another inmate and was shot by custody staff. Due to that injury, he still walks with a cane as a disability and takes medication for pain management.

XI. PLANS IF GRANTED RELEASE:

This inmate states that should he be released, he will parole to Los Angeles County, which is his county of commitment. He will seek employment in some type of a clerk or bookkeeping position. He has a letter in his Central file from a friend who has offered him a place to live. When queried concerning his ability to maintain a positive parole period, the inmate stated that by participating and following rules and regulations, he is fairly sure that he could complete parole without incident.

CLINICAL ASSESSMENT

XII. CURRENT MENTAL STATUS/TREATMENT NEEDS:

A. This inmate is a 42-year-old, black male of medium build who appeared his stated age. He was alert, cooperative and calm. He was appropriately dressed and groomed. His speech, affect and flow of thought were all within normal range. His intellectual functioning was estimated to be within the average range. Due to his leg injury, this man walks with a cane. He demonstrated insight into his commitment offense. His judgment appeared to be sound. There was no evidence of a mood or thought disorder.

B. CURRENT DIAGNOSTIC IMPRESSIONS:

AXIS I: No Contributory Clinical Disorder.
AXIS II: Adult Antisocial Behavior, improved.
AXIS III: No Contributory Physical Disorder.
AXIS V: GAF = 84.

MC CLORE, WILBER
CDC NUMBER: C-50493
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PAGE FOUR

This inmate's prognosis for community living, should he be paroled, is excellent. He has involved himself with many activities in the previous years that would ensure knowledge he did not previously possess. He has now taken the time and put forth the effort to learn. For example, for the last two years, Officer Band has written him wonderful chronos about how much maturity he has gained while incarcerated. He also completed a Life Skills group with Dr. Bakeman in the past. He also not only started one-to-one counseling with Dr. Bakeman, he has now completed that. A chrono dated 12/08/98, stating that that requirement by the Board of Prison Terms has been completed, is in his Central file. This inmate believes that by following the rules he can complete parole, and then he would like to return to Tennessee, where he can be with his family.

His family owns businesses in the Memphis area, and he can work and become closer to his family again. The prognosis for a successful parole period is excellent.

XIII. REVIEW OF LIFE CRIME:

When asked questions about his version of the offense, this inmate stated he believes that not only is he responsible for this crime, but he is completely responsible due to the fact that he believes at this point he could have talked his crime partner out of committing this crime. He is also very remorseful about how it affected the victim. He is also very apologetic to the State of California for the amount of money it took to convict him of his crime. These three examples of insight and judgment show that this inmate has matured greatly in the 14 years he has been incarcerated, and that at this time he would be an excellent candidate for parole.

XIV. ASSESSMENT OF DANGEROUSNESS:

- A. Within a controlled setting, due to his record of no CDC-115 violations since his last Board of Prison Terms report, as well as his good record with CDC, this inmate poses a considerably lesser degree of threat of violence than the average Level II inmate.

MC CLORE, WILBER
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- B. If released to the community, this inmate poses no more threat of violence or dangerousness than any other citizen in the community.
- C. In searching this inmate's Central file and his previous reports, there are no significant risk factors or precursors to violence that were locatable by this writer.

XV. CLINICIAN OBSERVATIONS, COMMENTS AND RECOMMENDATIONS:

- A. This inmate is competent and responsible for his behavior. He has the capacity to abide by institutional standards and has generally done so during his entire incarceration.
- B. This inmate has no mental health disorder which would necessitate treatment either before or after parole.
- C. This inmate does not appear to have and alcohol or drug problem that would necessitate treatment either before or after his incarceration.

St J. Terrini phd; for:

M. CARSWELL, Ph.D.
Staff Psychologist
Correctional Training Facility, Soledad

STEVEN J. TERRINI, Ph.D.
Staff Psychologist
Correctional Training Facility, Soledad

MC/gj

d: 05/13/99
t: 05/26/99

EXHIBIT “E”

This is to certify that

MC CLORE, W. LYNN, C-50493

has successfully completed a twelve-session course of Anger Management in an "Inmate's Guide to Anger Control"

Presented this 5th day of October, 2006.

Chaplain Judge C. Lindsey
Correctional Training Facility - Central

STATE OF CALIFORNIA

NAME and NUMBER

Mc CLORE, W

C50493

B-217L

NAME and NUMBER	Mc CLORE, W
While assigned as a visiting room photographer under my supervision for the past year, Mr. McClore has been a very positive influence in the visiting room. Mr. McClore has shown a willingness to take on additional duties when needed and complete them in an expedient manner. Mr. McClore is always respectful of other inmates and helped of him and complete them in the visiting room. Recently he has been very helpful in helping them with their needs in the visiting room. He has been seen with crayons, books, games and other items.	

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

ARNOLD SCHWARZENEGGER, GOVERNOR

DIVISION OF ADULT PAROLE OPERATIONS

1515 S Street, Room, Room 212N Sacramento, CA 95814
P.O. Box 942883
Sacramento, CA 94283-0001



November 10, 2006

Wilbur L. McClore, C50493
Correctional Training Facility
P.O. Box 689
Soledad, CA 93960-0689

Dear Mr. McClore:

This is in response to your recent letter requesting information concerning programs that are available to you upon your release. To assist parolees with their rehabilitation, the Division of Adult Parole Operations (DAPO) has developed and implemented numerous community-based programs. These include employment assistance services, computerized learning centers, residential facilities that provide multiple services to homeless parolees, and substance abuse treatment programs.

Currently, DAPO administers three employment programs, which are located throughout the State. One of these provides employment assistance services through State Employment Development Department job specialists, who are located within selected parole offices. Another program, the Offender Employment Continuum (OEC) helps parolees become self-sustaining by providing them with referrals to educational programs, vocational training, and prospective employers. Additionally, the OEC works closely with the Prison Industry Authority (PIA) to assist parolees who have participated in PIA programs to find long-term gainful employment. The Parole Employment Program provides employment services such as workshops and job placement assistance to parolees through community providers.

In addition to the employment programs, there are the Computerized Literacy Learning Centers (CLLC) where a parolee can advance from early education through 12th grade and/or obtain a General Education Development Certificate. CLLCs are located within selected parole units throughout the State.

DAPO also provides multiple services to homeless parolees through its Residential Multi-Service Centers (RMSC) and Parolee Service Centers (PSC). RMSCs are located in Alameda, Fresno, Kern, Los Angeles, San Diego, San Francisco, San Joaquin, and Yolo counties. PSCs are located in Alameda, Fresno, Kern, Los Angeles, Monterey, Shasta, San Diego, San Francisco, and Tulare counties. These community-based programs provide lodging, meals, individual and group counseling, parenting skills training, money management, life skills training, substance abuse counseling, and medical referrals. Other services include job search, job retention training, and assistance in obtaining employment. In addition, PSC contractors provide participants with a batterer's program. During transition planning, RMSC contractor staff provides program participants with assistance in locating permanent housing in the community and aftercare services.

Wilbur L. McClore, C50493

Page 2

For parolees who have a history of substance abuse, the DAPO operates several substance abuse treatment programs. These are located throughout the State and include the Substance Abuse Treatment and Recovery Program and the Parolee Services Network.

Programs and services are free of charge to all parolees. However, to access them, parolees must coordinate their enrollment through their assigned parole agent. After you have been assigned a parole agent, I encourage you to contact him or her for assistance in locating specific resources that may be available to you in your community.

I am enclosing a copy of the Parolee Information Handbook. The handbook identifies, to a limited degree, local service agencies and qualifying factors. It also outlines typical benefits such as clothing, housing, financial assistance, and bonding for employment, which some parolees may or may not be eligible for.

When completing your pre-parole plans, Release Program Study (CDC 611), with your assigned correctional counselor, you should discuss any parole issues you may have. To further assist you, I also recommend that you request, through your correctional counselor, participation in the institution's Pre-release Program.

I hope you find this information helpful.

Sincerely,



G. S. ALDER

Program Development Unit

Division of Adult Parole Operations

Enclosure

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
320 West Fourth Street, Room 830
Los Angeles, CA 90013
Tel: (213) 576-7750
Fax: (213) 576-7758

Arnold Schwarzenegger, Governor

www.dir.ca.gov



October 26, 2006

Mr. W. Lynn McClore C50493 B217
PO Box 689
Soledad, CA 93960

Dear Mr. McClore

This letter is being sent to you in response to your request for Apprenticeship information. Enclosed you will find a list of Apprenticeship programs which are assigned to the Division of Apprenticeship Standards, in Los Angeles.

Please use these lists to locate the program of your choice. Then contact the Joint Apprenticeship Training Committee by telephone to determine:

1. The requirements for entry.
2. The length of the training.
3. The days and time that the committee accepts application.
4. The documents that the committee wants you to bring with you when applying.

The apprenticeship programs can run from 2 years to 5 years depending on the craft. All apprenticeship programs consist of on-the-job training and supplemental/related instructions. You will be paid a wage during the period you receive the on-the-job training.

Hopefully, this information will be helpful to you in finding an apprenticeship program that fits your individual career interest.

Sincerely,

A handwritten signature in cursive script that reads 'Stephanie Foster'.

Stephanie Foster
Senior Apprenticeship Consultant

Enclosures:

STATE OF CALIFORNIA

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF APPRENTICESHIP STANDARDS
320 West Fourth Street, Room 830
Los Angeles, CA 90013
Tel: (213) 576-7750
Fax: (213) 576-7758

Arnold Schwarzenegger, Governor

www.dir.ca.gov



Los Angeles District Office
Committee List
Revised October 12, 2006

BARBER

LOS ANGELES COUNTY BARBERS
AND COSMETOLOGIST JAC
630 Shatto Place
Los Angeles, CA 90005
Phone: 213/487-7070 x7028

BRICKLAYER

BRICKLAYERS & ALLIED CRAFTS JAC
12921 Ramona Blvd. Suite G
Irwindale, CA 91706
Phone: 626/856-5750

BRICK TENDER

SOUTHERN CALIFORNIA LABORER JAC
22815 Frampton Ave.
Torrance, CA 90501-5034
Phone: 310/257-8004

CABINET MAKER

LOS ANGELES COUNTY CABINET
AND STORE FIXTURE JAC
10015 Rose Hills Road, Suite 100
Whittier, CA 90601
Phone: 562/699-0419

CARPENTER

SOUTHERN CALIFORNIA
CARPENTRY JA&TC
533 S. Fremont Avenue, Suite 401
Los Angeles, CA 90071-1706
Phone: 213/739-9343

CARPENTER

GOLD COAST CARPENTERS
412 Dawson Drive
Camarillo, CA 93012
Phone: 805/482-1905

CARPET INSTALLER

SOUTHERN CALIFORNIA RESILIENT
FLOOR & DECORATIVE COVERING
CRAFTS JATC
14906 Spring Avenue
Santa Fe Springs, CA 90670
Phone: 562/623-9244

CEMENT MASON

SOUTHERN CALIFORNIA
CEMENT MASONS JAC
1333 South Mayflower Ave., Ste. 350
Monrovia, CA 91016
Phone: 626/256-7674

CONSTRUCTION CRAFT LABORERS

LABORERS SOUTHERN CALIFORNIA JAC

1385 West Sierra Madre
Azusa, CA 91702
Phone: 626/610-1700

ELECTRICIAN

IBEW LOCAL UNION NO. 40
LOS ANGELES COUNTY
CHAPTER NECA JAC
5643 Vineland Avenue
North Hollywood, CA 91601
Phone: 818/762-4239

COSMETOLOGIST

COSMETICA
COSMETOLOGY AND BARBERING UAC
9050 Telegraph Road. Ste.201
Downey, CA 90240
Phone: 562/862-1090

COSMETOLOGIST

COSMETOLOGY UAC
1891 N. Gaffey, Suite P
San Pedro, CA 90731
Phone: 310/547-3711

DRYWALL FINISHER

LOS ANGELES DRYWALL FINISHER JAC
2077 Yates Avenue
City of Commerce, CA 90040
Phone: 323/727-2811

ELECTRICIAN

MOTION PICTURE ELECTRICIAN JAC
15503 Ventura Boulevard
Encino, CA 91436
Phone: 818/995-0900 and 818/769-0007

ELECTRICIAN

VENTURA COUNTY ELECTRICAL JATC
201 Bernoulli Circle-Unit "A"
Oxnard, CA 93030
Phone: 805/604-1155

ELECTRICIAN

LOS ANGELES COUNTY ELECTRICAL
JA&TC
6023 S. Garfield Avenue
City of Commerce, CA 90040
Phone: 323-221-5881

ELECTRICIAN

LOS ANGELES/VENTURA CHAPTER
OF ASSOCIATED BUILDERS & CONTRACTORS
INC. EUAC
15854 Strathern St.
Van Nuys, CA 91406
Phone: 818/908-6450

ELECTRICIAN

SANTA BARBARA COUNTY ELECTRICAL
JATC
530 East Main Street
Santa Maria, CA 93454
Phone: 805/348-1200

ELECTRICIAN

SAN LUIS OBISPO ELECTRICAL
WORKERS JAC
6363 Edna Road
San Luis Obispo, CA 93401

ELEVATOR CONSTRUCTORS
SOUTHERN CALIFORNIA ELEVATOR
CONSTRUCTORS
100 South Mentor Avenue
Pasadena, CA 91106
Phone: 626/449-1869

**(FIRE/LIFE/SAFETY)PROTECTIVE SIGNAL
INSTALLER**

WESTERN BURGLER AND FIRE ALARM
ASSOCIATION (WBFAA) UAC
3401 Pacific Avenue, Suite 1C
Marina Del Rey, CA 90292-7808
Phone: 800/809-0280

FLOOR WORKERS

LOS ANGELES COUNTY FLOOR WORKERS
JATC
10015 Rose Hills Road
Whittier, CA 90601
Phone: 562/695-0571

**HEAT & FROST INSULATORS
& ASBESTOS WORKERS**

SOUTHERN CALIFORNIA HEAT & FROST
INSULATORS & ASBESTOS WORKERS
670 E. Foothill Blvd., #3
Azusa, CA 91702
Phone: 626/334-6884

**INTERCOMMUNICATION
& SOUND ELECTRICIAN**

LOS ANGELES COUNTY
INTERCOMMUNICATION & SOUND JAC
6023 S. Garfield Ave.
City of Commerce, CA 90040
Phone: 323/221-5881

**LANDSCAPE & IRRIGATION
FITTER**

LANDSCAPE & IRRIGATION FITTER OF
SOUTHERN CALIFORNIA JATC
142 W. Pomona Avenue
Phone: 626/301-0531

PAINTER

**SOUTHERN CALIFORNIA PAINTERS
& DECORATORS JA&TC**
2077 Yates Ave
City of Commerce CA 90040
Phone: 323/727-2811

MACHINIST

SOUTHERN CALIFORNIA
TOOL & DIE, MOLD MACHINIST
& METAL WORKING
13230 E. Firestone, Suite A
Santa Fe Springs, CA 90670-7083
Phone: 562/404-4295 x10

MILLWRIGHT

CALIFORNIA MILLWRIGHT
& MACHINERY
ERECTORS JATC
10015 Rose Hills Road
Whittier, CA 90601
Phone: 562/695-0571

**OPERATING & MAINTENANCE
ENGINEER**

OPERATING & MAINTENANCE
ENGINEERING APPRENTICESHIP
& TRAINING TRUST FOR
SOUTHERN CALIFORNIA
2501 W. Third Street
Los Angeles, CA 90057
Phone: 213/385-2889 x112

OCCUPATIONS:

CONSTRUCTION INSPECTOR
DREDGE OPERATOR
EQUIPMENT OPERATOR
HEAVY DUTY MECHANIC
PLANT EQUIPMENT OPERATOR
AND ROCK, SAND AND GRAVEL

**SOUTHERN CALIFORNIA
OPERATING ENGINEERS JAC**
2190 S. Pellisier Place
Whittier CA 90601-1501
Phone: 562/696-0611

PILE DRIVER

**SOUTHERN CALIFORNIA PILE DRIVERS
JATC**

728 N Lagoon Ave
Wilmington CA 90744-5499
Phone: 310/830-5300

PLASTERER

**SOUTHERN CALIFORNIA PLASTERING
INSTITUTE AT&JAC**

1610 W. Holt Avenue
Pomona, CA 91768
Phone: 909/865-1773

PIPEFITTER

**SAN LUIS OBISPO COUNTY PLUMBING
JAC**

3710 Broad St.
San Luis Obispo, CA 93401
Phone: (805) 543-2416

PLUMBER

**GLENDALE, BURBANK, SAN FERNANDO
VALLEY & ANTELOPE VALLEY
PLUMBERS AND STEAMFITTERS JA&TC**

1305 N. Niagara Street
Burbank, CA 91505-1941
Phone: 818/848-1386

PLUMBER

**POMONA VALLEY PLUMBERS
& STEAMFITTERS JAC**

4959 Palo Verde, Suite 200C
Montclair, CA 91763
Phone: 909/625-2493

PLUMBER

LONG BEACH PLUMBERS JATC

1246 Locust Avenue
Long Beach, CA 90313
Phone: 562/436-1082

PLUMBER

**VENTURA COUNTY PLUMBING
& PIPEFITTING JAC**

1955 N. Ventura Avenue
Ventura, CA 93001
Phone: 805/643-6345

PLUMBER/PIPEFITTER

SANTA BARBARA COUNTY PIPE TRADES JAC

93 Thomas Road
Buellton, CA 93427
Phone: 805/688-1470 x7714

**REFRIGERATION & AIR
CONDITIONING FITTER**

**LOS ANGELES & ORANGE COUNTIES
AIR CONDITIONING & REFRIGERATION
JJATC**

2220 S. Hill
Los Angeles, CA 90007-1441
Phone: 213/747-0291

ROOFER/WATERPROOFER

**SOUTHERN CALIFORNIA ROOFERS
WATERPROOFERS JAC**

9901 Paramount Blvd., Suite 211
Downey, CA 90240
Phone: 562/927-2544

SHEET METAL WORKER

**SOUTHERN CALIFORNIA
SHEET METAL JA&TC**

633 North Baldwin Park Blvd.
City of Industry, CA 91746
Phone: 626/968-3340

SHEET METAL WORKER
TRI-COUNTIES SHEET METAL & AIR
CONDITIONING JAC

2500 Channel Drive
Ventura, CA 90303
Phone: 805/648-2220

TRANSPORTATION SYSTEM
ELECTRICIAN

SOUTHERN CALIFORNIA
TRANSPORTATION
SYSTEMS ELECTRICAL JAC

6023 S. Garfield Avenue
City of Commerce, CA 90040
Phone: 323/221-5881

SPRINKLER FITTER

SPRINKLER FITTERS UA LOCAL 709 JAC
12140 Rivera Road, Suite #B
Whittier, CA 90606-2602
Phone: 562/907-7622

STEAMFITTER & INDUSTRIAL
PIPEFITTER

LOS ANGELES AND VICINITY
STEAMFITTERS & INDUSTRIAL
PIPEFITTERS JATC
18355 S. Figueroa Street
Gardena, CA 90248-4217
Phone: 310/323-4475

TILE FINISHER
& MARBLE FINISHER

TILE SETTER

TILE & MARBLE FINISHERS JAEC
TILE LAYING INDUSTRY JAC
SAN DIEGO TILE INDUSTRY JAC
9730 E. Garvey Avenue
S. El Monte, CA 91733
Phone: 626/329-0850

LINE MECHANIC

CITY OF BURBANK ELECTRICIAN JAC

164 W Magnolia Blvd.
Burbank CA 91502
Phone: 818/238-5050

ELECTRIC LINE MECHANIC
STATION ELECTRICIAN OPERATOR
WATER SYSTEMS ANALYST

CITY OF GLENDALE JAC
613 E Broadway, Room 100
Glendale, CA 91206
Phone: 818/548-2110

POWER PLANT MECHANIC Phone: 818/548-2089
POWER PLANT OPERATOR 818/548-2148

CITY OF GLENDALE WATER & POWER
634 Bekins Way
Glendale CA 91201-3013

CABLE SPLICER 626/744-6986
LINEMAN 626/744-3705

CITY OF PASADENA JAC
100 N Garfield Ave
PO Box 7115
Pasadena CA 91109

ELECTRONIC MECHANIC
ELECTRONIC TECHNICIAN
ELECTRONIC REPAIRER
FIREBRICK REPAIRER
TRUCK MECHANIC

OWENS ILLINOIS
2901 FRUITLAND AVE.
Los Angeles, CA 90058
Phone: (323) 582-1594

TOOL & DIE MAKER
MAINTENANCE MECHANIC
MAINTENANCE ELECTRICIAN

THE HON COMPANY
2323 E. FIRESTONE BLVD
South Gate, CA 90280
Phone: 213/586-3278

Wilbur McClure, C-50493
Correctional Training Facility
P.O. Box 689 / B-Wing, 217-Low
Soledad, CA. 93960-0689

March 2, 2008

STATE OF CALIFORNIA COURT OF APPEALS
SECOND APPELLATE DISTRICT
300 S.Spring St., Fl.2, N.Tower
Los Angeles, CA.
90013-1213

Re: PETITION FOR WRIT OF HABEAS CORPUS.

Dear Clerk of the Court,

Enclosed please find a true copy of petitioner's PETITION FOR WRIT OF HABEAS CORPUS to be filed in your court. Due to the fact that I'm indigent I was unable to afford the additional copies normally required by the court for the filing of this petition. Petitioner requests the court note as well that the United States Supreme Court requires only one copy of PETITIONS filed in their court by inmates confined in an institution who are not represented by counsel. The high court recognizes the difficulties inmates have in producing copies. (See United States Supreme Court New Rules - Model 1995, 116 S.Ct. 22).

As it is I managed to copy enough copies of this PETITION FOR WRIT OF HABEAS CORPUS to serve the APPELLATE COURT and the ATTORNEY GENERAL, all with great difficulty, most of which was the availability of copy service, the breakdown of the aforementioned equipment and the fact that I'm currently housed at Correctional Training Facility that suffers numerous lockdowns and various other excuses why the library is closed. It's a major process and I consider myself fortunate to be able to get copied what I have under the trying and almost impossible circumstances.

Due to the requirements I file my PETITION in a timely manner, I have no choice by to file this PETITION without the number of copies requested by court rules. If this is a problem, please file my PETITION FOR WRIT OF HABEAS CORPUS and let me know if I need to provide more copies and I will do my best to obtain them.

Enclosed as well please find the cover/caption sheet of my copy of this PETITION FOR WRIT OF HABEAS CORPUS to be stamped "FILED" and returned to me in the S.A.S.E. I've provided.

Thank you for your attention to these matters. Your help is greatly appreciated.

Sincerely,

Wilbur McClure,
Petitioner in Pro Per

PROOF OF SERVICE
(C.C.P. §§1013(A), 2015.5)

STATE OF CALIFORNIA)

)

COUNTY OF MONTEREY)

I, Wilbur McClure, am a resident of the state of California, County of Monterey. I am over 18 years of age and I am a party to the within action. My residence address is P.O. Box 689, Soledad, California, 93960-0689.

On March 2, 2008, I served the foregoing PETITION FOR WRIT OF HABEAS CORPUS on the parties listed below by placing a true copy thereof enclosed in a sealed envelope with postage fully prepaid in the United State Mail at Soledad, California, addressed as follows:

STATE OF CALIFORNIA

COURT OF APPEALS

SECOND APPELLATE DISTRICT

300 S.Spring St., Fl.2, N.Tower 94244

Los Angeles, CA. 90013-1213

STATE ATTORNEY GENERAL

P.O. Box 944255

Sacramento, CA.

There is regular delivery service by the U.S. Postal Service between the place of mailing and the places so addressed.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2nd day of March, 2008, at Soledad, California, 93960-0689.

Wilbur McClure, C-50493

P.O. Box 689

B-Wing, 217-Low

Soledad, CA. 93960-0689

Care Your Rage Program

This is to certify that

MC CLORE, W. LYNN, C-50493

has successfully completed a
twelve-session course of Anger Management
in an "Inmate's Guide to Anger Control"

Presented this 5th day of October, 2006.



Chaplain Judge C. Lindsey
Correctional Training Facility - Central

Give Your Rage Program

This is to certify that

MC CLORE, W. LYNN, C-50493

has successfully completed a
twelve-session course of Anger Management
in an "Inmate's Guide to Anger Control"

Presented this 5th day of October, 2006.


Chaplain Judge C. Lindsey
Correctional Training Facility - Central

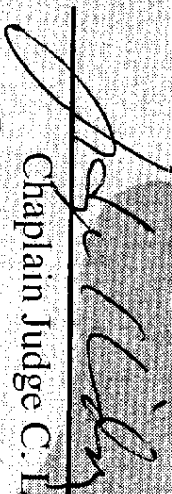
Case Your Rage Program

This is to certify that

MC CLORE, W. LYNN, C-50493

has successfully completed a
twelve-session course of Anger Management
in an "Inmate's Guide to Anger Control"

Presented this 5th day of October, 2006.



Chaplain Judge C. Lindsey
Correctional Training Facility - Central

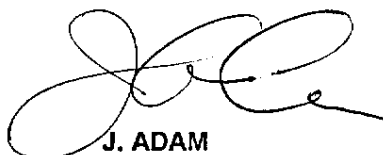
NAME and NUMBER

Mc CLORE, W

C50493

B-217L

While assigned as a visiting room photographer under my supervision for the past year, Mr. McClore has been a very positive influence in the visiting room. Mr. McClore has shown a willingness to take on additional duties when asked of him and complete them in an expedient manner. Mr. McClore is always respectful of other inmates and their families and is very efficient in helping them with their needs in the visiting room. Recently he has been very helpful in starting a new visiting recycle program that aids in purchasing needed crayons, books, games and other child oriented activities. Mr. McClores helpfulness is appreciated.



J. ADAM
VISITING SERGEANT
CTF-CENTRAL

ORIG
cc

C-File
Unit File
CC-I
Inmate
Writer

DATE 6/30/2003

CTF-C

LAUDATORY CHRONO


NAME and NUMBER

MCCLORE, W. C50493 BW-217L

CDC-128-B (Rev. 4/74)

Inmate **MCCLORE, W.**, C50493, BW-217L, has successfully completed the thirteen-week IMPACT workshop. The IMPACT Program is a self-help group designed to provide an opportunity for education and awareness as to the profound negative impact of crime on its victims. Throughout the thirteen weeks, the inmate participants were actively engaged in an open dialogue covering many areas of crime to include Child Abuse, Domestic Violence, Drugs and Alcohol, Elderly Abuse, Gang Violence, Sexual Assault, Theft and Property Crimes, Murder, and Victims' Rights. IMPACT is a voluntary self-help group and received support by presentations given by guest speakers from outside agencies such as the Monterey Rape Crisis Center, the Social Services Department, the Santa Cruz Barrios Unidos Center, and the Salinas Women's Crisis Center. In addition, survivors of various crimes, i.e., Domestic Violence, Gang Violence, and the family members of Murder victims appeared as guest speakers and made presentations on the crimes that affected their lives. Inmate **MCCLORE, W.** is to be commended for his participation and willingness to gain insight and empathy for the victims of crime.

Original: Central File
CC: IMPACT File
Writer
Inmate



I. Guerra, Facility Captain
IMPACT Program Coordinator
Correctional Training Facility

DATE: 04-29-02

LAUDATORY

GENERAL CHRONO

NAME McCLORE

NUMBER

C50493

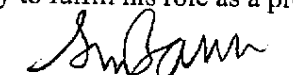
CELL

BW-217L

CDC-128B

Inmate **McCLORE C50493** has been assigned to B-Wing housing unit at CTF-Central since October 22, 1997. During this period of time, I have observed his behavior and interaction in a stressful living environment; his attitude and temperament in dealing with staff and inmates, and his hygienic habits. As a Correctional Officer of seventeen years, it is my professional opinion that inmate **McCLORE** demonstrates a high degree of maturity and responsibility in dealing with the stresses, tensions and problems of this prison environment. His personal contact with staff and inmates alike has always been void of any disrespectful or behavioral problems; always demonstrating an outward air of affability toward all those he interacts with. It is my opinion that once reintroduced back into society through parole he will continue to demonstrate those qualities of maturity and responsibility necessary to fulfill his role as a productive citizen.

Original: C-File
cc: Education Dept.
CC I
Supervisors File
Inmate



S.M. BANN
Correctional Officer
Senior B-Wing Officer

DATE: April 19, 2001

INFORMATIONAL CHRONO

GENERAL CHRONO

NAME and NUMBER

Mc CLORE, W

C50493

B-217L

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ORIG
ccC-File
Unit File
CC-I
Inmate
Writer
J. ADAM
VISITING SERGEANT
CTF-CENTRAL

DATE 6/30/2003

CTF-C

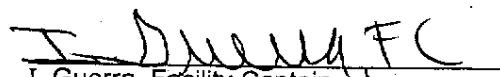
LAUDATORY CHRONO

NAME and NUMBER

MCCLORE, W. C50493 BW-217L

CDC-128-B (Rev. 4/74)

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Original: Central File
CC: IMPACT File
Writer
Inmate
I. Guerra, Facility Captain
IMPACT Program Coordinator
Correctional Training Facility

DATE: 04-29-02

LAUDATORY

GENERAL CHRONO

NAME McCLORE

NUMBER

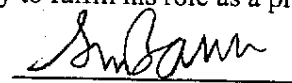
C50493

CELL

BW-217L

CDC-128B

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Original: C-File
cc: Education Dept.
CC I
Supervisors File
Inmate
S.M. BANN
Correctional Officer
Senior B-Wing Officer

DATE: April 19, 2001

INFORMATIONAL CHRONO

GENERAL CHRONO

NAME and NUMBER

Mc CLORE, W

C50493

B-217L

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J. ADAM
VISITING SERGEANT
CTF-CENTRAL

ORIG
cc

C-File
Unit File
CC-I
Inmate
Writer

DATE 6/30/2003

CTF-C

LAUDATORY CHRONO


NAME and NUMBER

MCCLORE, W. C50493 BW-217L

CDC-128-B (Rev. 4/74)

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Original: Central File
CC: IMPACT File
Writer
Inmate



I. Guerra, Facility Captain
IMPACT Program Coordinator
Correctional Training Facility

DATE: 04-29-02

LAUDATORY

GENERAL CHRONO

NAME McCLORE

NUMBER

C50493

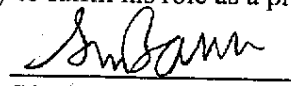
CELL

BW-217L

CDC-128B

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Original: C-File
cc: Education Dept.
CC I
Supervisors File
Inmate



S.M. BANN
Correctional Officer
Senior B-Wing Officer

DATE: April 19, 2001

INFORMATIONAL CHRONO

GENERAL CHRONO

The purpose of this chrono is to elaborate on inmate McClore's, December, 2006 work supervisors report (101). I have been assigned McClore's work supervisor in the CTF Central Visiting Room since August, 2006. McClore's work supervisor report does not reflect the fact McClore's work reaches much further than his duty statement. The visiting room can be a stressful environment for both inmates and visitors. McClore, goes beyond his job requirements by assisting visitors with such tasks as greeting, seating, relaying messages to custody staff, answering questions about protocol, and assisting with general clean up, thus relieving some of the stress the visitors experience. I receive many compliments from visitors about McClore's politeness, compassion, and professionalism. A personal observation I would like to relay is that McClore takes exceptional pride in his job as photographer. This can be a very stressful position for an inmate. McClore, deals directly with the public, taking photographs of visitors and inmates. These photographs are the only items allowed out of the visiting room. This makes these photographs valuable possessions that are taken extremely seriously. I have never received a complaint about his work, and this is an environment where custody staff receive daily complaints about things as trivial as table heights. I mention this because I feel it speaks volumes about McClore's ability to handle stressful environments. McClore, is always eager to take on extra responsibilities and is a "Team Player" when it comes to accomplishing the mission of the Visiting Room.


J. BORGES, C/O
CTF-CEN Visiting Room

DATE: 12/26/06 128(b) Laudatory Chrono GENERAL CHRONO

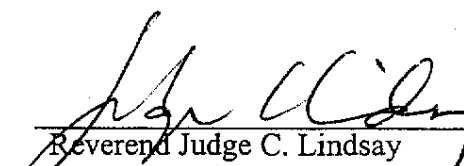
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDC-128 B (5-05)

NAME and NUMBER MC CLORE, W. C50493 BW-217L

~~Inmate MC CLORE, C50493, has actively participated in the "Cage Your Rage" Anger Management program. This twelve (12) session program addressed four (4) stages: "Anger, Past and Present", "Anger and Aggression", "What Causes Anger?", and "How to Mange Anger". This inmate has been equipped with the knowledge and tools to understand that, (a) Anger is an emotion, (b) Anger is controllable, and (c) to this powerful emotion, there is a choice whether or not to give in to it. Mr. MC CLORE should be commended for his participation in this program.~~

ORIG : CENTRAL FILE
cc : Protestant Chapel
: Inmate


Reverend Judge C. Lindsay
Protestant Chaplain
CTF-Soledad

DATE 10/5/2006 LAUDATORY GENERAL CHRONO

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J. BORGES, C/O
CTF-CEN Visiting Room

DATE: 12/26/06 128(b) Laudatory Chrono GENERAL CHRONO

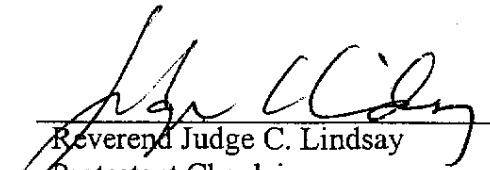
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDC-128 B*(5-05)

NAME and NUMBER MC CLORE, W. C50493 BW-217L

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ORIG : CENTRAL FILE
cc : Protestant Chapel
: Inmate


Reverend Judge C. Lindsay
Protestant Chaplain
CTF-Soledad

DATE 10/5/2006 LAUDATORY GENERAL CHRONO

NAME and NUMBER McCLORE, W. C-50493 BW-217L CDC-128-B REV 4/74

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J. BORGES, C/O
CTF-CEN Visiting Room

DATE: 12/26/06 128(b) Laudatory Chrono GENERAL CHRONO

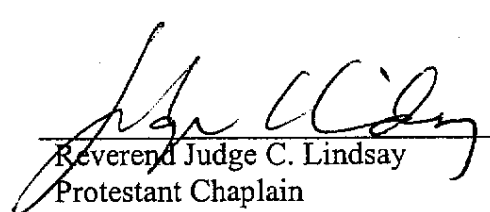
STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION
CDC-128 B(5-05)

NAME and NUMBER MC CLORE, W. C50493 BW-217L

~~Inmate MC CLORE, C50493, has actively participated in the "Cage Your Rage" Anger Management program. This twelve (12) session program addressed four (4) stages: "Anger, Past and Present", "Anger and Aggression", "What Causes Anger?", and "How to Mange Anger". This inmate has been equipped with the knowledge and tools to understand that, (a) Anger is an emotion, (b) Anger is controllable, and (c) to this powerful emotion, there is a choice whether or not to give in to it. Mr. MC CLORE should be commended for his participation in this program.~~

ORIG : CENTRAL FILE
cc : Protestant Chapel
: Inmate


Reverend Judge C. Lindsay
Protestant Chaplain
CTF-Soledad

DATE 10/5/2006

LAUDATORY

GENERAL CHRONO

WILSON McCLELLAN, C-55493
PROFESSIONAL TRAINING FACILITY
P.O. BOX 849 / 3-MIN, 2171
FOLENTA, CA. 93050-0849

LEGAL MAIL

Legal Mail.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
450 Golden Gate Ave
P.O. Box 36060
San Francisco, CA.
94102

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